



# Federal Register

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**WHAT:** Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

**WHY:** To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

**WHEN:** Tuesday, June 12, 2007  
9:00 a.m.–Noon

**WHERE:** Office of the Federal Register  
Conference Room, Suite 700  
800 North Capitol Street, NW.  
Washington, DC 20002

**RESERVATIONS:** (202) 741-6008



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# Rules and Regulations

Federal Register

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 1

RIN 3150-A117

### Emergency Preparedness Policies Developed for Nuclear Materials Facilities

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Direct final rule.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is amending its regulations that govern organization and functions of NRC offices. This action is necessary to clarify emergency preparedness program responsibilities of the Office of Nuclear Security and Incident Response. The current limiting reference of “nuclear reactors” will be replaced with the phrase “nuclear facilities.”

**DATES:** The final rule is effective on August 6, 2007, unless significant adverse comments are received by June 20, 2007. A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule’s underlying premise or approach, or would be ineffective or unacceptable without a change. If the NRC receives any significant adverse comments, the NRC will publish a document that withdraws the direct final rule and addresses the comments received in a final rule as a response to the companion proposed rule published elsewhere in this issue of the **Federal Register**.

**ADDRESSES:** You may submit comments by any one of the following methods. Please include the following number (RIN 3150-A117) in the subject line of your comments. Comments on rulemakings submitted in writing or in electronic form will be made available

for public inspection. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including personal information such as social security numbers and birth dates in your submission.

Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Rulemakings and Adjudications Staff.

E-mail comments to: [SECY@nrc.gov](mailto:SECY@nrc.gov). If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at (301) 415-1966. You may also submit comments via the NRC’s rulemaking Web site at <http://ruleforum.llnl.gov>. Address questions about our rulemaking Web site to Carol Gallagher (301) 415-5905; e-mail [cag@nrc.gov](mailto:cag@nrc.gov). Comments can also be submitted via the Federal eRulemaking Portal <http://www.regulations.gov>.

Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. Federal workdays. (Telephone (301) 415-1966).

Fax comments to: Secretary, U.S. Nuclear Regulatory Commission at (301) 415-1101.

Publicly available documents related to this rulemaking may be viewed electronically on the public computers located at the NRC’s Public Document Room (PDR), O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. The PDR reproduction contractor will copy documents for a fee. Selected documents, including comments, may be viewed and downloaded electronically via the NRC rulemaking Web site at <http://ruleforum.llnl.gov>.

Publicly available documents created or received at the NRC after November 1, 1999, are available electronically at the NRC’s Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. From this site, the public can gain entry into the NRC’s Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC’s public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC PDR Reference staff at 1-800-397-4209, 301-415-4737 or by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov).

### FOR FURTHER INFORMATION CONTACT:

Kevin R. O’Sullivan, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-8112, e-mail [kro2@nrc.gov](mailto:kro2@nrc.gov).

### SUPPLEMENTARY INFORMATION:

#### Background

The NRC’s regulations at 10 CFR part 1 identify the responsibilities of NRC program offices. On November 16, 2005 (70 FR 69422), the NRC amended 10 CFR part 1 to add, in a new § 1.46, the program responsibilities of the Office of Nuclear Security and Incident Response (NSIR). Section 1.46(c) specifies that NSIR develops emergency preparedness policies, regulations, programs, and guidelines for currently licensed nuclear reactors and potential new nuclear reactors.

The only revision to 10 CFR 1.46 now being made is to 10 CFR 1.46(c) to remove reference to “nuclear reactors” and add the term “nuclear facilities.”

#### Discussion

Section 1.46(c) specifies that NSIR develops emergency preparedness policies, regulations, programs, and guidelines for both currently licensed nuclear reactors and potential new nuclear reactors. The emergency preparedness programs for other nuclear facilities, including fuel cycle, spent fuel storage, transportation, waste, and various non-fuel cycle materials facilities, have been the responsibility of the Office of Nuclear Material Safety and Safeguards (NMSS). In January 2004, the Commission announced the consolidation of emergency preparedness and incident response functions within NSIR to centralize policy and program oversight of these activities.

This rule removes the limiting reference of “nuclear reactors” and adds the phrase “nuclear facilities” to the end of § 1.46(c).

This revision clarifies that NSIR has the programmatic responsibility for emergency preparedness policies, regulations, programs, and guidelines for all of the nuclear facilities that are under NRC jurisdiction. The transfer of certain emergency preparedness program responsibilities from NMSS to NSIR is being undertaken consistent with those Offices’ management commitments.



## Procedural Background

Because the NRC considers this action to be non-controversial, the NRC is using the direct final rule process for this rule. This rule will become effective on August 6, 2007. However, if the NRC receives significant adverse comments on this direct final rule by June 20, 2007, the NRC will publish a document that withdraws the direct final rule and address the comments received in a final rule as a response to the companion proposed rule published elsewhere in this issue of the **Federal Register**. Absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period on this action.

A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

(1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, a substantive response is required when:

(A) The comment causes the NRC staff to reevaluate (or reconsider) its position or conduct additional analysis;

(B) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(C) The comment raises a relevant issue that was not previously addressed or considered by the NRC staff.

(2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

(3) The comment causes the staff to make a change (other than editorial) to the rule.

## Voluntary Consensus Standards

The National Technology Transfer Act of 1995 (Pub. L. 104–113) requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this direct final rule, the NRC is amending its regulations to clarify NSIR emergency preparedness program responsibilities. This action does not constitute the establishment of a standard that establishes generally applicable requirements.

## Agreement State Compatibility

Under the “Policy Statement on Adequacy and Compatibility of Agreement State Programs” approved by the Commission on June 30, 1997, and published in the **Federal Register** on September 3, 1997 (62 FR 46517), this portion of regulations is designated Category “NRC” and therefore, is not a matter of Compatibility. Although an Agreement State may not adopt program elements reserved for NRC, it may inform its licensees of certain requirements through a mechanism that is consistent with the particular States administrative procedures laws, but does not confer regulatory authority on the State.

## Plain Language

The Presidential Memorandum dated June 1, 1998, entitled, “Plain Language in Government Writing” directed that the Government’s writing be in plain language. The NRC requests comments on this direct final rule specifically with respect to the clarity and effectiveness of the language used. Comments should be sent to the address listed under the heading **ADDRESSES** above.

## Environmental Impact: Categorical Exclusion

The NRC has determined that this direct final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(2). Therefore neither an environmental impact statement nor an environmental assessment has been prepared for this direct final rule.

## Paperwork Reduction Act Statement

This direct final rule does not contain information collection requirements and, therefore, is not subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

## Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid OMB control number.

## Regulatory Analysis

A regulatory analysis has not been prepared for this direct final rule because this rule is considered a minor non-substantive amendment; it has insignificant economic impact on NRC licensees and the public.

## Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)),

the Commission certifies that this rule does not have a significant economic impact on a substantial number of small entities. This rule merely clarifies NSIR programmatic responsibilities.

## Backfit Analysis

The NRC has determined that the backfit rule does not apply to this direct final rule because this amendment does not involve any provisions that would impose backfits as defined in the backfit rule. Therefore, a backfit analysis is not required.

## Congressional Review Act

As required by the Congressional Review Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs of OMB.

## List of Subjects in 10 CFR Part 1

Organization and function (Government agencies).

■ For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553; the NRC is adopting the following amendments to 10 CFR part 1.

## PART 1—STATEMENT OF ORGANIZATION AND GENERAL INFORMATION

■ 1. The authority citation for part 1 continues to read as follows:

**Authority:** Secs. 23, 161, 68 Stat. 925, 948, as amended (42 U.S.C. 2033, 2201); sec. 29, Pub. L. 85–256, 71 Stat. 579, Pub. L. 95–209, 91 Stat. 1483 (42 U.S.C. 2039); sec. 191, Pub. L. 87–615, 76 Stat. 409 (42 U.S.C. 2241); secs. 201, 203, 204, 205, 209, 88 Stat. 1242, 1244, 1245, 1246, 1248, as amended (42 U.S.C. 5841, 5843, 5844, 5845, 5849); 5 U.S.C. 552, 553; Reorganization Plan No. 1 of 1980, 45 FR 40561, June 16, 1980.

■ 2. In § 1.46, paragraph (c) is revised to read as follows:

### § 1.46 Office of Nuclear Security and Incident Response.

\* \* \* \* \*

(c) Develops emergency preparedness policies, regulations, programs, and guidelines for nuclear facilities;

\* \* \* \* \*

Dated at Rockville, Maryland, this 8th day of May, 2007.

For the Nuclear Regulatory Commission.

**Martin J. Virgilio,**

*Acting Executive Director for Operations.*

[FR Doc. E7–9714 Filed 5–18–07; 8:45 am]

**BILLING CODE 7590–01–P**

**DEPARTMENT OF THE INTERIOR****Office of Surface Mining Reclamation and Enforcement****30 CFR Part 914****[Docket No. IN-157-FOR]****Indiana Regulatory Program**

**AGENCY:** Office of Surface Mining Reclamation and Enforcement, Interior.  
**ACTION:** Final rule; approval of amendment.

**SUMMARY:** We, the Office of Surface Mining Reclamation and Enforcement (OSM), are approving an amendment to the Indiana regulatory program (Indiana program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The Indiana Department of Natural Resources, Division of Reclamation (IDNR, Indiana, or department) made revisions to its rules to allow commercial forestry (trees) to be planted on reclaimed prime farmland provided all remaining reclamation requirements for prime farmland soil reconstruction and restoration are met. Indiana also restructured several of its provisions and made some minor language changes. Indiana intends to revise its program to improve operational efficiency.

**EFFECTIVE DATE:** May 21, 2007.

**FOR FURTHER INFORMATION CONTACT:** Andrew R. Gilmore, Chief, Alton Field Division—Indianapolis Area Office. Telephone: (317) 226-6700. E-mail: IFOMAIL@osmre.gov.

**SUPPLEMENTARY INFORMATION:**

- I. Background on the Indiana Program
- II. Submission of the Amendment
- III. OSM's Findings
- IV. Summary and Disposition of Comments
- V. OSM's Decision
- VI. Procedural Determinations

**I. Background on the Indiana Program**

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, "a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act \* \* \*; and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act." See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior (Secretary) conditionally approved the Indiana program effective July 29, 1982.

You can find background information on the Indiana program, including the Secretary's findings, the disposition of comments, and the conditions of approval, in the July 26, 1982, **Federal Register** (47 FR 32071). You can also find later actions concerning the Indiana program and program amendments at 30 CFR 914.10, 914.15, 914.16, and 914.17.

**II. Submission of the Amendment**

By letter dated October 23, 2006 (Administrative Record No. IND-1738), Indiana sent us an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*) at its own initiative. The provisions of Title 312 Indiana Administrative Code (IAC) that Indiana revised are: 312 IAC 25-4-102, special categories of mining-prime farmland and 312 IAC 25-6-143, prime farmland-special performance standards—revegetation and restoration of soil productivity.

We announced receipt of the proposed amendment in the November 13, 2006, **Federal Register** (71 FR 66148). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the amendment. We did not hold a public hearing or meeting because no one requested one. The public comment period ended on December 13, 2006. We received comments from two Federal agencies.

**III. OSM's Findings**

Following are the findings we made concerning the amendment under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17. We are approving the amendment as described below. Any revisions that we do not specifically discuss below concern nonsubstantive wording or editorial changes.

**A. Minor Revisions to Indiana's Rules**

1. Indiana restructured the following provisions with minor changes to the existing language: 312 IAC 25-4-102(a)(1), (a)(3)(A) and (B); (b); (d)(4) and (6); (e)(3); and (f)(5).

For example, at 312 IAC 25-4-102(a)(1), Indiana restructured the sentence, "A map showing the geographical location of the area for which the determination is requested and the area previously affected by surface coal mining and reclamation operation," to:

A map showing the geographical location of:

- (A) The area for which the determination is requested; and
- (B) The area previously affected by surface coal mining and reclamation operation.

2. Indiana restructured the following provisions with minor changes to the existing language: 312 IAC 25-6-143(b)(3) and (b)(8).

For example, at 312 IAC 25-6-143(b)(3), Indiana restructured the sentence, "The sampling techniques contained in section 60 of this rule and the statistical methodology contained in section 61 of this rule shall be used to measure soil productivity," to:

The:

- (A) Sampling techniques contained in section 60 of this rule; and
- (B) Statistical methodology contained in section 61 of this rule;

shall be used to measure soil productivity.

Because these changes are minor and do not alter the meaning of the affected regulations, we find that they will not make Indiana's rules less effective than the corresponding Federal regulations.

**B. Other Revisions to Indiana's Rules**

Indiana revised its prime farmland rules at 312 IAC 25-4-102, which concern application requirements for prime farmland mining and restoration. Indiana also revised 312 IAC 25-6-143, which concerns revegetation and restoration of soil productivity for prime farmland. The purpose of the revisions is to allow commercial trees to be planted on reclaimed prime farmland areas provided soil productivity is demonstrated according to prime farmland soil productivity standards. In other words, the revisions would establish standards for planting trees on those parts of reclaimed prime farmland upon which crops need not be grown to demonstrate restoration of soil productivity and revegetation success.

There are no direct Federal counterparts to most of the revisions. However, all revisions affecting prime farmland restoration must be consistent with the Federal prime farmland regulations at 30 CFR 785.17 and Part 823.

**1. 312 IAC 25-4-102 Special Categories of Mining—Prime Farmland**

Indiana added new subdivision (d)(8) to read as follows:

(8) If the applicant proposes to establish commercial forest resources on the prime farmland, the plan must also include the following:

- (A) A commercial forest planting plan that shall include the following:
  - (i) A stocking rate.
  - (ii) A plan for replanting as needed.
- (B) A commercial forest management plan.
- (C) Documentation of landowner consent.

Subsection (d) of this section concerns land within the proposed permit area that is identified as prime farmland. Once prime farmland is

identified, the applicant must submit a plan for mining and restoring that land. The requirements in subsection (d) were previously approved as no less effective than the Federal regulation at 30 CFR 785.17(c). Newly added subdivision (8) contains additional application requirements for establishing commercial forestry (trees) on those portions of prime farmland upon which crops need not be grown to demonstrate restoration of soil productivity and revegetation success.

## 2. 312 IAC 25-6-143 Prime Farmland—Special Performance Standards—Revegetation and Restoration of Soil Productivity

Indiana added new subsection (c) to read as follows:

(c) Commercial forest resources may be established on reclaimed prime farmland provided that productivity is demonstrated by subsection (b) and as follows:

(1) The director has approved a forest planting plan and forest management plan in consultation with the division of forestry.

(2) Landowner consent has been obtained.

(3) Forest compatible, permanent ground cover sufficient to control erosion is established and all erosion areas must be repaired or otherwise stabilized.

(4) The required soil replacement depth is verified and approved before trees are planted.

(5) Soil productivity shall be demonstrated under subsection (b).

Subsection (b) of this section contains Indiana's requirements for revegetation and restoration of soil productivity for prime farmland. These requirements were previously approved as no less effective than the Federal regulation at 30 CFR 823.15(b). Newly added subsection (c) contains the additional requirements needed for planting commercial trees on those portions of reclaimed prime farmland upon which crops need not be grown to demonstrate restoration of soil productivity and revegetation success.

The Federal regulation at 30 CFR 785.17(e)(1) provides that the regulatory authority may approve mining and reclamation of prime farmland only if it first finds that the approved postmining land use of those prime farmlands is cropland. Originally designated as 30 CFR 785.17(d)(1) when first adopted on March 13, 1979, the preamble explains this provision as meaning that “\* \* \* at the time the bond is released, the land must both be capable of supporting prime farmland use and must actually be in use as prime farmland.” See 44 FR 15086, March 13, 1979. (That portion of the preamble uses the term “prime farmland” as a synonym for cropland.) Consistent with this preamble discussion, the 1979 version of the

prime farmland revegetation success standards at 30 CFR 823.15(b) required that crops be planted on “\* \* \* any portion of the permit area which is prime farmland \* \* \*

Illinois challenged 30 CFR 785.17(d)(1) as being inconsistent with section 515(b)(2) of SMCRA, which requires that surface coal mining and reclamation operations “\* \* \* restore the land affected to a condition capable of supporting the uses which it was capable of supporting prior to any mining, or to higher or better uses \* \* \*.” The court rejected this challenge, citing what it characterized as “clear congressional intent to restore prime farmland to cropland” and noting that section 519(c)(2) of the Act prohibits release of bond “\* \* \* until soil productivity for prime farm lands has returned to equivalent levels of yield as nonmined land of the same soil type in the surrounding area under equivalent management practices \* \* \*.” The court stated that “[t]his equivalency standard could not be achieved absent the postmining employment of prime farmland as cropland.” See *In Re: Permanent Surface Mining Regulation Litigation, Round II (PSMRL, Round II)*, 19 ERC 1480, 1482 (D.D.C. May 16, 1980).

The rationale set forth in that decision is arguably inconsistent with the court's earlier decision on a similar challenge to the revegetation success standards for prime farmland—in 30 CFR 823.11(c) and 823.15(b) and (c)—by the National Coal Association (NCA). As originally adopted on March 13, 1979, paragraph (b) of 30 CFR 823.15 provided that “\* \* \* any portion of the permit area which is prime farmland must be used for crops commonly grown, such as corn, soybeans, cotton, grain, hay, sorghum, wheat, oats, barley, or other crops on surrounding prime farmland.” In the NCA case, the court upheld the challenge, finding that “\* \* \* the Act fails to provide statutory support for requiring coal operators to engage in farming.” See *In Re: Permanent Surface Mining Regulation Litigation, Round I (PSMRL, Round I)*, 14 ERC 1083, 1106 (D.D.C. February 26, 1980). Referring to a number of statutory provisions, including those the court later cited as a basis for its conflicting decision on 30 CFR 785.17(d)(1) in *PSMRL, Round II*, the court stated that—

These statutory enactments do not command a coal operator to actually farm the land. Instead, they direct the operator to demonstrate capability of prime farmlands to support pre-mining productivity.

See *PSMRL, Round I*, 14 ERC 1083, 1106.

In a subsequent rulemaking, we incorporated aspects of both decisions. First, the revised rules at 30 CFR 823.15(b) retain the requirement that crops be grown to demonstrate the restoration of soil productivity for prime farmland. The preamble explains that we “\* \* \* determined that cropping is the only method currently available to test the restoration of the productivity of prime farmland soils because insufficient research has been published that demonstrates the reliability of any other method.” See 48 FR 21458, May 12, 1983.

Second, we did not adopt the proposed rule to the extent that it, like the 1979 rule, would have required crops to be grown on any portion of the disturbed area that is prime farmland historically used as cropland. Instead, revised section 823.15(b)(2) requires that soil productivity “\* \* \* be measured on a representative sample or on all of the mined and reclaimed prime farmland area using the reference crop determined under paragraph (b)(6) of this section.” As explained in the preamble, the revised rule reflects an agreement between OSM and the Soil Conservation Service [since renamed the Natural Resources Conservation Service] “\* \* \* that the amount of prime farmland area used to grow crops for proof of soil productivity could include the entire mined and reclaimed prime farmland area or a portion of the mined and reclaimed prime farmland area which would result in a statistically valid sample at a 90 percent confidence level.” See 48 FR 21459, May 12, 1983. The courts upheld the revised rules. See *In Re: Permanent Surface Mining Regulation Litigation II, Round II*, 21 ERC 1724, 1732–34 (D.D.C. October 1, 1984) and *NWF v. Hodel*, 839 F.2d 694, 716–718 (D.C. Cir. 1988). Consequently, the 1979 preamble discussion of 30 CFR 785.17(d)(1) [since redesignated as paragraph (e)(1)] is no longer valid to the extent that it required all prime farmland to be planted with crops. That requirement now applies only to those portions of the reclaimed prime farmland that are to be used to demonstrate restoration of soil productivity and revegetation success.

Therefore, based on the foregoing discussion, we find that Indiana's proposed amendment is not inconsistent with and is no less effective than the Federal rules at 30 CFR 785.17(e)(1) and 823.15. First, like the Federal rules at 30 CFR 785.17(e)(1), the Indiana rules require that the postmining land use of all prime farmland be cropland, which means that, consistent with 30 CFR 816.133(a), 817.133(a), and 823.14, all disturbed

prime farmland must be restored to conditions that are capable of supporting cropland. Second, like the Federal rules at 30 CFR 823.15(b), the Indiana rules require, among other things, that measurement of soil productivity be initiated within 10 years after completion of soil replacement and that revegetation success be determined on the basis of crops grown on all or a representative sample of the mined and reclaimed prime farmland. Indiana's proposed amendment at 312 IAC 25–6–143(c) would not alter any of these requirements. Instead, it addresses revegetation of those portions of the reclaimed prime farmland on which crops will not be grown. Consistent with 30 CFR 823.15(a), which requires that the soil surface be stabilized with a vegetation cover or other means that effectively controls soil loss by wind and water erosion, proposed 312 IAC 25–6–143(c)(3) requires establishment of a permanent ground cover sufficient to control erosion.

Based on the discussion above, we are approving Indiana's revisions at 312 IAC 25–4–102(d)(8) and 25–6–143(c) as no less effective than the Federal regulations.

#### IV. Summary and Disposition of Comments

##### *Public Comments*

We asked for public comments on the amendment, but did not receive any.

##### *Federal Agency Comments*

On October 27, 2006, under 30 CFR 732.17(h)(11)(i) and section 503(b) of SMCRA, we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Indiana program (Administrative Record No. IND–1740). We received two comments; one from the U.S. Fish and Wildlife Service and one from the U.S. Department of Agriculture's Forest Service. The U.S. Fish and Wildlife Service responded on November 8, 2006 (Administrative Record No. IND–1742), stating that it supports Indiana's proposed program amendment. The Forest Service responded on December 4, 2006 (Administrative Record No. IND–1743), that it too supports this amendment.

##### *Environmental Protection Agency (EPA) Concurrence and Comments*

Under 30 CFR 732.17(h)(11)(ii), we are required to get a written concurrence from EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act

(42 U.S.C. 7401 *et seq.*). None of the revisions that Indiana proposed to make in this amendment pertain to air or water quality standards. Therefore, we did not ask EPA to concur on the amendment. However, on October 27, 2006, under 30 CFR 732.17(h)(11)(i), we requested comments on the amendment from EPA (Administrative Record No. IND–1740). EPA did not respond to our request.

##### *State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)*

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On October 27, 2006, we requested comments on Indiana's amendment (Administrative Record No. IND–1740), but neither responded to our request.

#### V. OSM's Decision

Based on the above findings, we approve the amendment Indiana sent us on October 23, 2006.

To implement this decision, we are amending the Federal regulations at 30 CFR part 914, which codify decisions concerning the Indiana program. We find that good cause exists under 5 U.S.C. 553(d)(3) to make this final rule effective immediately. Section 503(a) of SMCRA requires that the State's program demonstrate that the State has the capability of carrying out the provisions of the Act and meeting its purposes. Making this rule effective immediately will expedite that process. SMCRA requires consistency of State and Federal standards.

##### *Effect of OSM's Decision*

Section 503 of SMCRA provides that a State may not exercise jurisdiction under SMCRA unless the State program is approved by the Secretary. Similarly, 30 CFR 732.17(a) requires that any change to an approved State program be submitted to OSM for review as a program amendment. The Federal regulations at 30 CFR 732.17(g) prohibit any changes to approved State programs that are not approved by OSM. In the oversight of the Indiana program, we will recognize only the statutes, rules and other materials we have approved, together with any consistent implementing policies, directives and other materials. We will require Indiana to enforce only approved provisions.

#### VI. Procedural Determinations

##### *Executive Order 12630—Takings*

The provisions in the rule based on counterpart Federal regulations do not

have takings implications. This determination is based on the analysis performed for the counterpart Federal regulations. The revisions made at the initiative of the State that do not have Federal counterparts have also been reviewed and a determination made that they do not have takings implications. This determination is based on the fact that this rulemaking has no takings implications.

##### *Executive Order 12866—Regulatory Planning and Review*

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866.

##### *Executive Order 12988—Civil Justice Reform*

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

##### *Executive Order 13132—Federalism*

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to “establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.” Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be “in accordance with” the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations “consistent with” regulations issued by the Secretary pursuant to SMCRA.

*Executive Order 13175—Consultation and Coordination With Indian Tribal Governments*

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally-recognized Indian tribes and have determined that the rule does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. This determination is based on the fact that the Indiana program does not regulate coal exploration and surface coal mining and reclamation operations on Indian lands. Therefore, the Indiana program has no effect on Federally-recognized Indian tribes.

*Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy*

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

*National Environmental Policy Act*

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

*Paperwork Reduction Act*

This rule does not contain information collection requirements that require approval by OMB under the

Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

*Regulatory Flexibility Act*

The Department of the Interior certifies that a portion of the provisions in this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because they are based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this part of the rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations. The Department of the Interior also certifies that the provisions in this rule that are not based upon counterpart Federal regulations will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This determination is based upon the fact that the provisions are voluntary and as such are not expected to have a substantive effect on the regulated industry.

*Small Business Regulatory Enforcement Fairness Act*

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of \$100 million; (b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that a portion of the State provisions are based upon counterpart Federal regulations for which an analysis was prepared and a determination made that

the Federal regulation was not considered a major rule. For the portion of the State provisions that is not based upon counterpart Federal regulations, this determination is based upon the fact that the State provisions are voluntary and as such are not expected to have a substantive effect on the regulated industry.

*Unfunded Mandates*

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of \$100 million or more in any given year. This determination is based upon the fact that a portion of the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate. For the portion of the State provisions that is not based upon counterpart Federal regulations, this determination is based upon the fact that the State provisions are voluntary and as such are not expected to have a substantive effect on the regulated industry.

**List of Subjects in 30 CFR Part 914**

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 19, 2007.

**Ervin J. Barchenger,**  
*Acting Regional Director, Mid-Continent Region.*

■ For the reasons set out in the preamble, 30 CFR part 914 is amended as set forth below:

**PART 914—INDIANA**

■ 1. The authority citation for part 914 continues to read as follows:

**Authority:** 30 U.S.C. 1201 *et seq.*

■ 2. Section 914.15 is amended in the table by adding a new entry in chronological order by “Date of final publication” to read as follows:

**§ 914.15 Approval of Indiana regulatory program amendments.**

\* \* \* \* \*

Original amendment submission date	Date of final publication	Citation/description
* * * * *	* * * * *	* * * * *
October 23, 2006 .....	May 21, 2007 .....	312 IAC 25–4–102(a)(1) and (3); (b); (d)(4), (6), and (8); (e)(3); (f)(5); 25–6–143(b)(3) and (8), (c).

# Proposed Rules

Federal Register

Vol. 72, No. 97

Monday, May 21, 2007

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 1

RIN 3150-A117

### Emergency Preparedness Policies Developed for Nuclear Materials Facilities

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations that govern organization and functions of NRC offices. This action is necessary to clarify emergency preparedness program responsibilities of the Office of Nuclear Security and Incident Response. The current limiting reference of "nuclear reactors" would be replaced with the phrase "nuclear facilities."

**DATES:** Comments on the proposed rule must be received on or before June 20, 2007.

**ADDRESSES:** You may submit comments by any one of the following methods. Please include the following number (RIN 3150-A117) in the subject line of your comments. Comments on rulemakings submitted in writing or in electronic form will be made available for public inspection. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including personal information such as social security numbers and birth dates in your submission.

Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Rulemakings and Adjudications Staff.

E-mail comments to: [SECY@nrc.gov](mailto:SECY@nrc.gov). If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at (301) 415-1966. You may also submit comments via the NRC's rulemaking Web site at <http://ruleforum.llnl.gov>. Address questions about our rulemaking

Web site to Carol Gallagher (301) 415-5905; e-mail [cag@nrc.gov](mailto:cag@nrc.gov). Comments can also be submitted via the Federal eRulemaking Portal <http://www.regulations.gov>.

Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. Federal workdays. (Telephone (301) 415-1966).

Fax comments to: Secretary, U.S. Nuclear Regulatory Commission at (301) 415-1101.

Publicly available documents related to this rulemaking may be viewed electronically on the public computers located at the NRC's Public Document Room (PDR), O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. The PDR reproduction contractor will copy documents for a fee. Selected documents, including comments, may be viewed and downloaded electronically via the NRC rulemaking Web site at <http://ruleforum.llnl.gov>.

Publicly available documents created or received at the NRC after November 1, 1999, are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. From this site, the public can gain entry into the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC PDR Reference staff at 1-800-397-4209, 301-415-4737 or by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov).

#### FOR FURTHER INFORMATION CONTACT:

Kevin R. O'Sullivan, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-8112, e-mail [kro2@nrc.gov](mailto:kro2@nrc.gov).

**SUPPLEMENTARY INFORMATION:** For additional information see the Direct Final Rule published in the final rules section of this **Federal Register**.

#### Procedural Background

Because the NRC considers this action non-controversial and routine, the NRC is publishing this proposed rule concurrently as a direct final rule. The direct final rule will become effective on August 6, 2007. However, if the NRC

receives significant adverse comments on the direct final rule by June 20, 2007, then the NRC will publish a document to withdraw the direct final rule. If the direct final rule is withdrawn, the NRC will address the comments received in response to the proposed revisions in a subsequent final rule. Absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period for this action if the direct final rule is withdrawn.

A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

(1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, a substantive response is required when:

(A) The comment causes the NRC staff to reevaluate (or reconsider) its position or conduct additional analysis;

(B) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(C) The comment raises a relevant issue that was not previously addressed or considered by the NRC staff.

(2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

(3) The comment causes the staff to make a change (other than editorial) to the rule.

#### List of Subjects in 10 CFR Part 1

Organization and function (Government agencies).

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 553; the NRC is proposing to adopt the following amendments to 10 CFR part 1.

#### PART 1—STATEMENT OF ORGANIZATION AND GENERAL INFORMATION

1. The authority citation for part 1 continues to read as follows:

**Authority:** Secs. 23, 161, 68 Stat. 925, 948, as amended (42 U.S.C. 2033, 2201); sec. 29, Pub. L. 85–256, 71 Stat. 579, Pub. L. 95–209, 91 Stat. 1483 (42 U.S.C. 2039); sec. 191, Pub. L. 87–615, 76 Stat. 409 (42 U.S.C. 2241); secs. 201, 203, 204, 205, 209, 88 Stat. 1242, 1244, 1245, 1246, 1248, as amended (42 U.S.C. 5841, 5843, 5844, 5845, 5849); 5 U.S.C. 552, 553; Reorganization Plan No. 1 of 1980, 45 FR 40561, June 16, 1980.

2. In § 1.46, paragraph (c) is revised to read as follows:

**§ 1.46 Office of Nuclear Security and Incident Response.**

\* \* \* \* \*

(c) Develops emergency preparedness policies, regulations, programs, and guidelines for nuclear facilities;

\* \* \* \* \*

Dated at Rockville, Maryland, this 8th day of May, 2007.

For the Nuclear Regulatory Commission.

**Martin J. Virgilio,**

*Acting Executive Director for Operations.*

[FR Doc. E7–9713 Filed 5–18–07; 8:45 am]

**BILLING CODE 7590–01–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA–2007–28229; Directorate Identifier 2006–SW–23–AD]

**RIN 2120–AA64**

#### **Airworthiness Directives; Eurocopter France Model EC130 B4 Helicopters**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes adopting a new airworthiness directive (AD) for Eurocopter France (Eurocopter) Model EC 130 B4 helicopters, with certain twist grip assemblies installed. This proposal would require inspecting the pilot and co-pilot collective levers for proper bonding between the twist grip drive tubes and the control pinions and if debonding is present, replacing the collective levers before further flight. This proposal is prompted by one incident in which the engine remained at idle speed although the twist grip had been turned to the flight position. The actions specified by this proposed AD are intended to detect debonding between the twist grip drive tubes and the control pinions on the pilot and co-pilot collective levers to prevent loss of cockpit throttle control of the engine, and subsequent loss of control of the helicopter.

**DATES:** Comments must be received on or before July 20, 2007.

**ADDRESSES:** Use one of the following addresses to submit comments on this proposed AD:

- **DOT Docket Web site:** Go to <http://dms.dot.gov> and follow the instructions for sending your comments electronically;
- **Government-wide rulemaking Web site:** Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically;
- **Mail:** Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590;
- **Fax:** 202–493–2251; or
- **Hand Delivery:** Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

You may get the service information identified in this proposed AD from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527.

You may examine the comments to this proposed AD in the AD docket on the Internet at <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** Ed Cuevas, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Safety Management Group, Fort Worth, Texas 76193–0111, telephone (817) 222–5355, fax (817) 222–5961.

#### **SUPPLEMENTARY INFORMATION:**

##### **Comments Invited**

We invite you to submit any written data, views, or arguments regarding this proposed AD. Send your comments to the address listed under the caption **ADDRESSES**. Include the docket number “FAA–2007–28229, Directorate Identifier 2006–SW–23–AD” at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to <http://dms.dot.gov>, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed rulemaking. Using the search function of our docket Web site, you can find and read the comments to any of our dockets, including the name of the individual who sent or signed the

comment. You may review the DOT’s complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you may visit <http://dms.dot.gov>.

#### **Examining the Docket**

You may examine the docket that contains the proposed AD, any comments, and other information in person at the Docket Management System (DMS) Docket Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5227) is located at the plaza level of the Department of Transportation Nassif Building in Room PL–401 at 400 Seventh Street, SW., Washington, DC. Comments will be available in the AD docket shortly after the DMS receives them.

#### **Discussion**

The European Aviation Safety Agency (EASA) notified us that an unsafe condition may exist on Eurocopter Model EC 130 B4 helicopters, with a twist grip assembly, part number (P/N) 350A27520900, 350A27520901, 350A27520902, or 350A27520903, with a serial number below 64, installed on the pilot’s side, and a twist grip assembly, P/N 350A27521201, with a serial number below 67, installed on the co-pilot’s side. EASA advises that analysis of an incident that occurred during autorotation training revealed a failure of the twist grip drive tube and control pinion bonded attachment. The engine remained at idle rating although the twist grip had been turned back to the flight position. The manufacturer states that the autorotation procedure continued without damage to the helicopter, which landed safely. The failure has been attributed to non-compliant surface preparation during manufacture.

Eurocopter, an EADS Company, has issued Alert Service Bulletin EC130 No. 76A001, dated February 10, 2006, which specifies a check by use of a twist grip adjusting gauge of the bonding between the twist grip drive tube and the control pinion on both the pilot and co-pilot collective levers. If the twist grip twists under a load on the adjusting gauge of 35N, the collective lever must be replaced. EASA classified this service bulletin as mandatory and issued AD No. 2006–0079, dated April 3, 2006, to ensure the continued airworthiness of these helicopters in France.

This helicopter model is manufactured in France and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation



Regulations (14 CFR 21.29) and the applicable bilateral agreement. Under this agreement, EASA has kept the FAA informed of the situation described above. We have examined EASA's findings, evaluated all pertinent information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

This previously described unsafe condition is likely to exist or develop on other helicopters of the same type design registered in the United States. Therefore, the proposed AD would require, within 110 hours time-in-service (TIS) or 4 months, whichever occurs first, or before the installation of a collective lever with an affected twist grip assembly on a helicopter, inspecting the bonding between the twist grip drive tube and the control pinion on both the pilot and co-pilot collective levers. If debonding is present, replacing the collective lever with an airworthy collective lever that has been inspected in accordance with paragraph (a) of this proposed AD, or a collective lever with a twist grip assembly that is not listed in the Applicability of this proposed AD is required before further flight. The actions would be required to be accomplished by following the specified portions of the alert service bulletin described previously.

We estimate that this proposed AD would affect 73 helicopters of U.S. registry. The debonding inspection would take approximately 0.25 work hour per helicopter and replacing a collective lever would take approximately 2 work hours, at an average labor rate of \$80 per work hour. If replacement is necessary, required parts would cost approximately:

- \$8,651 for a co-pilot twist grip assembly, P/N 350A27521201;
- \$12,542 for a pilot twist grip assembly, P/N 350A27520903;
- \$5 for a clamp, P/N ASNA0021;
- \$2 for a bolt, P/N 22125BC050014L; and
- \$1 for a nut, P/N 22431BC050L.

Based on these figures, we estimate the total cost impact of the proposed AD on U.S. operators to be \$10,271, assuming one co-pilot twist grip assembly is replaced in one helicopter, that the twist grip adjusting gage (tool) and spring scale needed are on-site and available, that the co-pilot twist grip assembly is not covered by warranty, and no pilot twist grip assembly will need to be replaced. The manufacturer has indicated that parts are covered by warranty up to 1,000 hours or 2 years after the purchase of a new helicopter,

however it was indicated that labor is not covered by a warranty.

### Regulatory Findings

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. Additionally, this proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed regulation:

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and
3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a draft economic evaluation of the estimated costs to comply with this proposed AD. See the DMS to examine the draft economic evaluation.

### Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, "General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

### The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

## PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

### § 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

**Eurocopter France:** Docket No. FAA-2007-28229; Directorate Identifier 2006-SW-23-AD.

**Applicability:** Model EC130 B4 helicopters, with a twist grip assembly, part number (P/N) 350A27520900, 350A27520901, 350A27520902, or 350A27520903, with a serial number below 64, installed on the pilot's side, and a twist grip assembly, P/N 350A27521201, with a serial number below 67, installed on the co-pilot's side, certificated in any category.

**Compliance:** Required within 110 hours time-in-service (TIS) or 4 months, whichever occurs first, and before installing a replacement collective lever with an affected twist grip assembly, unless accomplished previously.

To detect a reduced bonding strength of the control pinion on the pilot and co-pilot collective lever drive tubes, which could lead to failure of a twist grip drive tube and control pinion bonded attachment, resulting in loss of engine throttle control and subsequent loss of control of the helicopter, accomplish the following:

(a) Inspect the pilot and co-pilot collective levers for proper bonding between the twist grip drive tubes and the control pinions in accordance with paragraphs 2.B.1. and 2.B.2. of the Accomplishment Instructions, in Eurocopter, an EADS Company, Alert Service Bulletin EC130 No. 76A001, dated February 10, 2006, except you are neither required to contact the manufacturer nor return a non-compliant collective lever.

(b) If a twist grip turns when applying the 35N load to the twist grip, before further flight, replace the collective lever with an airworthy collective lever that has been inspected in accordance with paragraph (a) of this AD, or a collective lever with a twist grip assembly that is not listed in the Applicability of this AD.

(c) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Contact the Manager, Safety Management Group, FAA, ATTN: Ed Cuevas, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Safety Management Group, Fort Worth, Texas 76193-0111, telephone (817) 222-5355, fax (817) 222-5961, for information about previously approved alternative methods of compliance.

**Note:** The subject of this AD is addressed in EASA (France) AD 2006-0079, dated April 3, 2006.



Issued in Fort Worth, Texas, on May 7, 2007.

**David A. Downey,**

*Manager, Rotorcraft Directorate, Aircraft Certification Service.*

[FR Doc. E7-9708 Filed 5-18-07; 8:45 am]

BILLING CODE 4910-13-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2007-28228; Directorate Identifier 2006-SW-08-AD]

RIN 2120-AA64

#### Airworthiness Directives; Eurocopter France Model EC130 B4 Helicopters

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This amendment proposes adopting a new airworthiness directive (AD) for Eurocopter France (ECF) Model EC130 B4 helicopters. This proposal would require, within 100 hours time-in-service (TIS), modifying and testing the wiring of the battery overheat sensing circuit. This proposal is prompted by a malfunction in the battery overheat sensing circuit found during a scheduled inspection. The actions specified by this proposed AD are intended to correct the connection of the thermal switch to the cockpit indicator light, to notify the flight crew of an overheated battery, and to prevent a thermal runaway of the battery, an in-flight fire, and subsequent loss of control of the helicopter.

**DATES:** Comments must be received on or before July 20, 2007.

**ADDRESSES:** Use one of the following addresses to submit comments on this proposed AD:

- *DOT Docket Web site:* Go to <http://dms.dot.gov> and follow the instructions for sending your comments electronically;

- *Government-wide rulemaking Web site:* Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically;

- *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590;

- *Fax:* 202-493-2251; or

- *Hand Delivery:* Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

You may get the service information identified in this proposed AD from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053-4005, telephone (972) 641-3460, fax (972) 641-3527.

You may examine the comments to this proposed AD in the AD docket on the Internet at <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** Gary Middleton, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Regulations and Policy Group, Fort Worth, Texas 76193-0111, telephone (817) 222-5197, fax (817) 222-5961.

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

We invite you to submit any written data, views, or arguments regarding this proposed AD. Send your comments to the address listed under the caption **ADDRESSES**. Include the docket number "FAA-2007-28228, Directorate Identifier 2006-SW-08-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to <http://dms.dot.gov>, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed rulemaking. Using the search function of our docket Web site, you can find and read the comments to any of our dockets, including the name of the individual who sent or signed the comment. You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78), or you may visit <http://dms.dot.gov>.

##### Examining the Docket

You may examine the docket that contains the proposed AD, any comments, and other information in person at the Docket Management System (DMS) Docket Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1-800-647-5227) is located at the plaza level of the Department of Transportation Nassif Building in Room PL-401 at 400 Seventh Street, SW., Washington, DC. Comments will be available in the AD docket shortly after the DMS receives them.

## Discussion

The Direction Generale De L'Aviation Civile (DGAC), the airworthiness authority for France, notified the FAA that an unsafe condition may exist on ECF Model EC130 B4 helicopters. The DGAC advises that a malfunction of the battery overheat sensing function, due to incorrect wiring of the battery overheat sensing circuit, was found during a scheduled maintenance. The DGAC also advises that failure of the battery overheat sensing function to operate could give rise to a fire in the event of thermal runaway of the battery.

ECF has issued Alert Telex No. 24A001, dated December 20, 2005 (AT). The AT specifies modifying and testing the battery overheat sensing circuit (MOD 073572) for batteries located in the right-hand side baggage compartment (not modified per OP-3685 or 073739) and for batteries in the tailboom (modified per OP-3685 or 073739). The DGAC classified this AT as mandatory and issued AD No. F-2006-010, dated January 4, 2006, to ensure the continued airworthiness of these helicopters in France.

This helicopter model is manufactured in France and is type certificated for operation in the United States under the provisions of 14 CFR 21.29 and the applicable bilateral agreement. Pursuant to the applicable bilateral agreement, the DGAC has kept us informed of the situation described above. We have examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

This previously described unsafe condition is likely to exist or develop on other helicopters of the same type design registered in the United States. Therefore, the proposed AD would require, within 100 hours TIS, modifying and testing the wiring of the battery overheat sensing circuit. The actions of this AD would be required to be accomplished by following the specified portions of the alert telex described previously.

We estimate that this proposed AD would affect 68 helicopters of U.S. registry. Modifying and testing the overheat sensing circuit wiring would take about 1 work hour per helicopter at an average labor rate of \$80 per work hour. Based on these figures, we estimate the total cost impact of the proposed AD on U.S. operators to be \$5440.

##### Regulatory Findings

We have determined that this proposed AD would not have federalism

implications under Executive Order 13132. Additionally, this proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed regulation:

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and
3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a draft economic evaluation of the estimated costs to comply with this proposed AD. See the DMS to examine the draft economic evaluation.

#### Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, "General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

#### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

#### The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

#### PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

#### § 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

**Eurocopter France:** Docket No. FAA-2007-28228; Directorate Identifier 2006-SW-08-AD.

**Applicability:** Model EC130 B4 helicopters not modified per MOD 073572, with the battery in either the right-hand baggage compartment or the tailboom, certificated in any category.

**Compliance:** Required within 110 hours time-in-service, unless accomplished previously.

To correct the connection of the thermal switch to the cockpit indicator light, to notify the flight crew of an overheated battery, and to prevent a thermal runaway of the battery, an in-flight fire, and subsequent loss of control of the helicopter, do the following:

(a) Modify the wiring of the battery overheat sensing circuit and test the battery overheat sensing indicator light by following the Accomplishment Instructions, paragraph 2.B.1. or 2.B.2., depending on the location of the battery, of Eurocopter Alert Telex No. 24A001, dated December 20, 2005.

(b) Modifying and testing the battery overheat sensing circuit by following paragraph (a) of this AD is terminating action for the requirements of this AD.

(c) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Contact the Manager, Rotorcraft Directorate, FAA, ATTN: Gary Middleton, Aviation Safety Engineer, Regulations and Policy Group, Fort Worth, Texas 76193-0111, telephone (817) 222-5197, fax (817) 222-5961, for information about previously approved alternative methods of compliance.

**Note:** The subject of this AD is addressed in Direction Generale De L'Aviation Civile (France) AD No. F-2006-010, dated January 4, 2006.

Issued in Fort Worth, Texas, on May 1, 2007.

**Scott A. Horn,**

*Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.*

[FR Doc. E7-9695 Filed 5-18-07; 8:45 am]

**BILLING CODE 4910-13-P**

#### DEPARTMENT OF TRANSPORTATION

#### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2007-27230; Directorate Identifier 2007-NE-04-AD]

**RIN 2120-AA64**

**Airworthiness Directives; Pratt & Whitney (PW) PW4164, PW4168, and PW4168A Turbofan Engines**

**AGENCY:** Federal Aviation Administration (FAA), Department of Transportation (DOT).

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for PW PW4164, PW4168, and PW4168A turbofan engines with certain low pressure turbine (LPT) stage 4 disks, part number (P/N) 51N404, installed. This proposed AD would require removing certain LPT stage 4 disks, listed by serial number at the next piece-part exposure or within 7,500 cycles-since-new (CSN), whichever occurs first. This proposed AD results from a report of improperly manufactured LPT stage 4 disks. We are proposing this AD to prevent an uncontained engine failure due to low-cycle fatigue (LCF), which could result in damage to the airplane.

**DATES:** We must receive any comments on this proposed AD by July 20, 2007.

**ADDRESSES:** Use one of the following addresses to comment on this proposed AD.

- **DOT Docket Web site:** Go to <http://dms.dot.gov> and follow the instructions for sending your comments electronically.

- **Government-wide rulemaking Web site:** Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.

- **Mail:** Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-0001.

- **Fax:** (202) 493-2251.

- **Hand Delivery:** Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

You may examine the comments on this proposed AD in the AD docket on the Internet at <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** V. Rose Len, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; telephone (781) 238-7772; fax (781) 238-7199.

#### SUPPLEMENTARY INFORMATION:

#### Comments Invited

We invite you to send us any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES**. Include "Docket No. FAA-2007-27230; Directorate Identifier 2007-NE-04-AD" in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy

aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to <http://dms.dot.gov>, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of the DOT Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit <http://dms.dot.gov>.

### Examining the AD Docket

You may examine the docket that contains the proposal, any comments received and, any final disposition in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone (800) 647–5227) is located on the plaza level of the Department of Transportation Nassif Building at the street address stated in **ADDRESSES**. Comments will be available in the AD docket shortly after the Docket Management Facility receives them.

### Discussion

On September 29, 2006, we received a report of 16 LPT stage 4 disks, P/N 51N404, manufactured with an improper material process. The disks were not properly heat treated during the manufacturing process. The manufacturer solution-heat treated the disks for one hour instead of the four hours required. We believe this manufacturing discrepancy will result in reduced LCF properties for the disks. Operating the affected disks to the certified life limit could result in uncontained failure of the disk due to LCF. Although we have received no reports of disk separations, this condition, if not corrected, could result in the disk separating from the engine due to LCF, which could result in damage to the airplane.

### FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other products of this same

type design. We are proposing this AD, which would require removing certain LPT stage 4 disks, P/N 51N404, listed by serial number in the proposed AD, at the next piece-part exposure, or within 7,500 CSN, whichever occurs first.

### Costs of Compliance

We estimate that this proposed AD would affect 11 engines installed on airplanes of U.S. registry. We also estimate that it would take about 250 work-hours per engine to perform the proposed action, if not done at piece-part exposure, and that the average labor rate is \$80 per work-hour. Required parts would cost about \$186,288 per engine. Based on these figures, we estimate the total cost of the proposed AD to U.S. operators to be \$2,269,168.

### Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, "General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

### Regulatory Findings

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed AD:

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and
3. Would not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD. You may get a copy of this summary at the address listed under **ADDRESSES**.

### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

### The Proposed Amendment

Under the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 as follows:

### PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

#### § 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new airworthiness directive:

**Pratt & Whitney:** Docket No. FAA–2007–27230; Directorate Identifier 2007–NE–04–AD.

#### Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this airworthiness directive (AD) action by July 20, 2007.

#### Affected ADs

- (b) None.

#### Applicability

(c) This AD applies to Pratt & Whitney PW4164, PW4168, and PW4168A turbofan engines with certain low pressure turbine (LPT) stage 4 disks, part number (P/N) 51N404, that have a serial number listed in the following Table 1 of this AD installed. These engines are installed on, but not limited to, Airbus A330–200 and A330–300 series airplanes.

TABLE 1.—AFFECTED LPT STAGE 4 DISKS BY SERIAL NUMBER

LPT stage 4 disk serial numbers

CLDLC01142  
CLDLC01143  
CLDLC01144  
CLDLC01145  
CLDLC01146  
CLDLC01148  
CLDLC01149  
CLDLC01150  
CLDLC01151  
CLDLC01152  
CLDLC01181  
CLDLC01182  
CLDLC01183  
CLDLC01185  
CLDLC01186  
CLDLC01187

**Unsafe Condition**

(d) This AD results from a report of improperly manufactured LPT stage 4 disks. We are issuing this AD to prevent an uncontained engine failure due to low-cycle fatigue, which could result in damage to the airplane.

**Compliance**

(e) You are responsible for having the actions required by this AD performed at the next piece-part exposure after the effective date of this AD or within 7,500 cycles-since-new, unless the actions have already been done.

**Removing the LPT Stage 4 Disk**

(f) Remove from service any LPT stage 4 disk that has a serial number listed in Table 1 of this AD.

**Prohibition Against Installing an Affected Disk**

(g) After the effective date of this AD, do not install any disk, P/N 51N404, that has a serial number listed in Table 1 of this AD or any disk removed as specified in paragraph (f) of this AD except as allowed by paragraph (h) of this AD.

**Alternative Methods of Compliance**

(h) The Manager, Engine Certification Office, has the authority to approve alternative methods of compliance for this

AD if requested using the procedures found in 14 CFR 39.19.

**Special Flight Permits**

(i) Under 14 CFR part 39.23, we are prohibiting the special flight permits for this AD.

**Related Information**

(j) None.

Issued in Burlington, Massachusetts, on May 11, 2007.

**Peter A. White,**

*Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.*

[FR Doc. E7-9697 Filed 5-18-07; 8:45 am]

**BILLING CODE 4910-13-P**

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## ADVISORY COUNCIL ON HISTORIC PRESERVATION

### Notice of Department of the Air Force Adoption of Program Comments for Cold War Era (1946–1974) Unaccompanied Personnel Housing, World War II and Cold War Era (1939–1974) Ammunition Storage Facilities from the Advisory Council on Historic Preservation, and Notice of Availability of Final Environmental Assessment and Finding of No Significant Impact

**AGENCY:** Advisory Council on Historic Preservation.

**ACTION:** Notice of Department of the Air Force Adoption of Program Comments for Cold War Era (1946–1974) Unaccompanied Personnel Housing, World War II and Cold War Era (1939–1974) Ammunition Storage Facilities from the Advisory Council on Historic Preservation, and Notice of Availability of Final Environmental Assessment and Finding of No Significant Impact.

**SUMMARY:** This provides notice of the Air Force's adoption of the Advisory Council on Historic Preservation's Program Comments for Cold War Era Unaccompanied Personnel Housing (1946–1974), World War II and Cold War Era (1939–1974) Ammunition Storage Facilities, and the availability of the final Environment Assessment and Finding of No Significant Impact for the actions.

**DATES:** This Program Comment goes into effect on May 21, 2007.

**ADDRESSES:** To obtain copies of the Program Comments, the final EA and signed FONSI, visit Defense Environmental Network Information eXchange (DENIX) Web site at <https://www.denix.osd.mil/ProgramAlternatives>. Address all comments concerning these Program Comments to David Berwick, Army Program Manager, Advisory Council on Historic Preservation, 1100 Pennsylvania Avenue, NW., Suite 803,

Washington, DC 20004. Fax (202) 606–8672. [dberwick@achp.gov](mailto:dberwick@achp.gov).

**FOR FURTHER INFORMATION CONTACT:**

Dave Berwick (202) 606–8505.

**SUPPLEMENTARY INFORMATION:** Section 106 of the National Historic Preservation Act requires Federal agencies to consider the effects of their undertakings on historic properties and provide the Advisory Council on Historic Preservation (ACHP) a reasonable opportunity to comment with regard to such undertakings. ACHP has issued the regulations that set forth the process through which Federal agencies comply with these duties. Those regulations are codified under 36 CFR part 800 ("Section 106 regulations").

Under Section 800.14(e) of those regulations, agencies can request ACHP to provide a "Program Comment" on a particular category of undertakings in lieu of conducting individual reviews of each individual undertaking under such category, as set forth in 36 CFR 800.4 through 800.6. An agency can meet its Section 106 responsibilities for those undertakings by taking into account ACHP's Program Comment and by following the steps set forth in those comments.

On August 18, 2006, the Advisory Council on Historic Preservation approved and issued to the Department of Defense a Program Comment on World War II and Cold War era (1939–1974) Ammunition Storage Facilities, and a Program Comment on Cold War era (1946–1974) Unaccompanied Personnel Housing. The Program Comments pertain to all buildings and structures designed and built as ammunition storage facilities (DoD Real Property category group 42XXXX) within the years 1939–1974, and all buildings and structures that were designed and built as Unaccompanied Personnel Housing (DoD Real Property category group 72XXXX) in the years 1946–1974. The Program Comments include treatment measures for the following undertakings for these two categories of properties: ongoing operations, maintenance and repair; rehabilitation; renovation; mothballing; cessation of maintenance, new construction, demolition; deconstruction and salvage; remediation activities; and transfer, sale, lease, and closure of such facilities. The Department of the Air Force has taken

into account the Advisory Council on Historic Preservation's Program Comment on World War II and Cold War era (1939–1974) Ammunition Storage Facilities, and the Program Comment on Cold War era (1946–1974) Unaccompanied Personnel Housing, and accepts and adopts these Program Comments. The Department of the Air Force ensures that the effects of these undertakings on these categories of historic properties is taken into account by execution of the steps identified as treatment measures in the Program Comments, Sections II.B. Treatment measures vary by property type. For Cold War era Unaccompanied Housing, the Department of the Air Force will prepare a supplemental context study that will be an appendix to the Army's existing study, "Unaccompanied Personnel Housing (UPH) During the Cold War (1946–1989)." For World War II and Cold War era Ammunition Storage Facilities, the Department of the Air Force will prepare a supplemental historic context study that will be an appendix to the Army's existing context study, "Army Ammunition and Explosives Storage in the United States, 1775–1945". The Department of the Air Force will also document a representative sampling of the basic types of above-ground and earth covered ammunition storage facilities at three geographically dispersed locations that offer the greatest number and variety of resources constructed during the cold war. The Department of the Air Force will also prepare documentation of Cold War era Unaccompanied Personnel Housing at three geographically dispersed locations that offer the greatest number and variety of resources constructed during the Cold War. The full text of the Program Comments can be found on the DENIX Web site at <https://www.denix.osd.mil/ProgramAlternatives>.

The Department of the Air Force also announces the availability of the final Environmental Assessment (EA) and signed Finding of No Significant Impact (FONSI) for the Program Comment process. Notice of the availability of the draft EA and FONSI was published in the **Federal Register** on October 26, 2004, Vol. 69, No. 206, pp. 62431–62432. With the Army as lead agency, the Department of the Air Force considered all public comments

received on the draft before finalizing the EA and FONSI.

**Authority:** 36 CFR 800.14(e)

Dated: May 16, 2007.

**John M. Fowler,**

*Executive Director.*

[FR Doc. 07-2504 Filed 5-18-07; 8:45am]

**BILLING CODE 4310-K6-M**

## ADVISORY COUNCIL ON HISTORIC PRESERVATION

### Notice of Department of Navy Adoption of Program Comments for Cold War Era (1946-1974) Unaccompanied Personnel Housing, World War II and Cold War Era (1939-1974) Ammunition Storage Facilities from the Advisory Council on Historic Preservation, and Notice of Availability of Final Environmental Assessment and Finding of No Significant Impact

**AGENCY:** Advisory Council on Historic Preservation.

**ACTION:** Notice of Department of Navy Adoption of Program Comments for Cold War Era (1946-1974) Unaccompanied Personnel Housing, World War II and Cold War Era (1939-1974) Ammunition Storage Facilities from the Advisory Council on Historic Preservation, and Notice of Availability of Final Environmental Assessment and Finding of No Significant Impact.

**SUMMARY:** This provide notice of the Navy's adoption of the Advisory Council on Historic Preservation's Program Comments for Cold War Era Unaccompanied Personnel Housing (1946-1974), World War II and Cold War Era (1939-1974) Ammunition Storage Facilities, and the availability of the final Environmental Assessment and Finding of No Significant Impact for the actions.

**DATES:** This Program Comment goes into effect on May 21, 2007.

**ADDRESSES:** To obtain copies of the Program Comments, the final EA and signed FONSI, visit Defense Environmental Network Information eXchange (DENIX) Web site at <https://www.denix.osd.mil/ProgramAlternatives>. Address all comments concerning these Program Comments to David Berwick, Army Program Manager, Advisory Council on Historic Preservation, 1100 Pennsylvania Avenue, NW., Suite 803, Washington, DC 20004. Fax (202) 606-8672. [dberwick@achp.gov](mailto:dberwick@achp.gov).

**FOR FURTHER INFORMATION CONTACT:** Dave Berwick (202) 606-8505.

**SUPPLEMENTARY INFORMATION:** Section 106 of the National Historic

Preservation Act requires Federal agencies to consider the effects of their undertakings on historic properties and provide the Advisory Council on Historic Preservation (ACHP) a reasonable opportunity to comment with regard to such undertakings. ACHP has issued the regulations that set forth the process through which Federal agencies comply with these duties. Those regulations are codified under 36 CFR part 800 ("Section 106 regulations").

Under Section 800.14(e) of those regulations, agencies can request ACHP to provide a "Program Comment" on a particular category of undertakings in lieu of conducting individual review of each individual undertaking under such category, as set forth in 36 CFR 800.4 through 800.6. An agency can meet its Section 106 responsibilities for those undertakings by taking into account ACHP's Program Comment and by following the steps set forth in those comments.

On August 18, 2006, the Advisory Council on Historic Preservation approved and issued to the Department of Defense a Program Comment on World War II and Cold War era (1939-1974) Ammunition Storage Facilities, and a Program Comment on Cold War era (1946-1974) Unaccompanied Personnel Housing. The Program Comments pertain to all buildings and structures designed and built as ammunition storage facilities (DoD Real Property category group 42XXXX) within the years 1939-1974, and all buildings and structures that were designed and built as Unaccompanied Personnel Housing (DoD Real Property category group 72XXXX) in the years 1946-1974. The Program Comments include treatment measures for the following undertakings for these two categories of properties: ongoing operations, maintenance and repair; rehabilitation; renovation; mothballing; cessation of maintenance, new construction, demolition; deconstruction and salvage; remediation activities; and transfer, sale, lease, and closure of such facilities. The Department of the Navy has taken into account the Advisory Council on Historic Preservation's Program Comment on World War II and Cold War era (1939-1974) Ammunition Storage Facilities, and the Program Comment on Cold War era (1946-1974) Unaccompanied Personnel Housing, and accepts and adopts these Program Comments. The Department of the Navy ensures that the effects of these undertakings on these categories of historic properties is taken into account by execution of the steps identified as

treatment measures in the Program Comments, Sections II.B. Treatment measures vary by property type. For Cold War era Unaccompanied Housing, the Department of the Navy will prepare a supplemental context study that will be an appendix to the Army's existing study, "Unaccompanied Personnel Housing (UPH) During the Cold War (1946-1989)." For World War II and Cold War era Ammunition Storage Facilities, the Department of the Navy will prepare a supplemental historic context study that will an appendix to the Army's existing context study, "Army Ammunition and Explosives Storage in the United States, 1775-1945". The Department of the Navy will also prepare documentation of ammunition storage facilities at four installations, to include three Navy installations and one Marine Corps installations. The Department of the Navy will also prepare documentation of Cold War era Unaccompanied Personnel Housing at four installations, to include three Navy installations and one Marine Corps installation. The full text of the Program Comments can be found on the DENIX Web site at <https://denix.osd.mil/programAlternatives>.

The Department of the Navy also announces the availability of the final Environmental Assessment (EA) and signed Finding of No Significant Impact (FONSI) for the Program Comment process. Notice of the availability of the draft EA and FONSI was published in the **Federal Register** on October 26, 2004, Vol. 69, No. 206, pp. 62431-62432. With the Army as lead agency, the Department of the Navy considered all public comments received on the draft before finalizing the EA and FONSI.

**Authority:** 36 CFR 800.14(e)

Dated: May 16, 2007

**John M. Fowler,**

*Executive Director.*

[FR Doc. 07-2505 Filed 5-18-07; 8:45 am]

**BILLING CODE 4310-K6-M**

**ADVISORY COUNCIL ON HISTORIC PRESERVATION****Notice of Army Adoption of Program Comments for Cold War Era (1946–1974) Unaccompanied Personnel Housing, World War II and Cold War Era (1939–1974) Ammunition Storage Facilities, and World War II and Cold War Era (1939–1974) Army Ammunition Production Facilities and Plants from the Advisory Council on Historic Preservation, and Notice of Availability of Final Environmental Assessment and Finding of No Significant Impact**

**AGENCY:** Advisory Council on Historic Preservation.

**ACTION:** Notice of Army Adoption of Program Comments for Cold War Era (1946–1974) Unaccompanied Personnel Housing, World War II and Cold War Era (1939–1974) Ammunition Storage Facilities, and World War II and Cold War Era (1939–1974) Army Ammunition Production Facilities and Plants from the Advisory Council on Historic Preservation, and Notice of Availability of Final Environmental Assessment and Finding of No Significant Impact.

**SUMMARY:** This provides notice of the Army's adoption of the Advisory Council on Historic Preservation's Program Comments for Cold War Era Unaccompanied Personnel Housing (1946–1974), World War II and Cold War Era (1939–1974) Ammunition Storage Facilities, and World War II and Cold War Era (1939–1974) Army Ammunition Production Facilities and Plants, and the availability of the final Environmental Assessment and Finding of No Significant Impact for the actions.

**DATES:** This Program Comment goes into effect on May 21, 2007.

**ADDRESSES:** To obtain copies of the Program Comments, the final EA and signed FONSI, visit Defense Environmental Network Information eXchange (DENIX) Web site at <https://www.denix.osd.mil/ProgramAlternatives>. Address all comments concerning these Program Comments to David Berwick, Army Program Manager, Advisory Council on Historic Preservation, 1100 Pennsylvania Avenue, NW., Suite 803, Washington, DC 20004. Fax (202) 606–8672. [dberwick@achp.gov](mailto:dberwick@achp.gov).

**FOR FURTHER INFORMATION CONTACT:** Dave Berwick (202) 606–8505.

**SUPPLEMENTAL INFORMATION:** Section 106 of the National Historic Preservation Act requires Federal agencies to consider the effects of their undertakings on historic properties and provide the

Advisory Council on Historic Preservation (ACHP) a reasonable opportunity to comment with regard to such undertakings. ACHP has issued the regulations that set forth the process through which Federal agencies comply with these duties. Those regulations are codified under 36 CFR part 800 “Section 106 regulations”).

Under Section 800.14(e) of those regulations, agencies can request ACHP to provide a “Program Comment” on a particular category of undertakings in lieu of conducting individual reviews of each individual undertaking under such category, as set forth in 36 CFR 800.4 through 800.6. An agency can meet its Section 106 responsibilities for those undertakings by taking into account ACHP's Program Comment and by following the steps set forth in those comments.

On August 18, 2006, the Advisory Council on Historic Preservation approved and issued to the Department of the Army a Program Comment for World War II and Cold War era (1939–1974) Army Ammunition Production Facilities and Plants, and to the Department of Defense a Program Comment on World War II and Cold War era (1939–1974) Ammunition Storage Facilities, and a Program Comment on Cold War era (1946–1974) Unaccompanied Personnel Housing. The Program Comments pertain to all Army ammunition production facilities (Army Real Property category group 226XX) built between 1939 and 1974 at Army Ammunition Plants, all buildings and structures designed and built as ammunition storage facilities (DoD Real Property category group 42XXXX) within the years 1939–1974, and all buildings and structures that were designed and built as Unaccompanied Personnel Housing (DoD Real Property category group 72XXXX) in the years 1946–1974. The Program Comments include treatment measures for the following undertakings for these four categories of properties: ongoing operations, maintenance and repair; rehabilitation; renovation; mothballing; cessation of maintenance, new construction; demolition; deconstruction and salvage; remediation activities; and transfer, sale, lease, and closure of such facilities. The Department of the Army has taken into account the Advisory Council on Historic Preservation's Program Comment for World War II and Cold War era (1939–1974) Army Ammunition Production Facilities and Plants, the Program Comment on World War II and Cold War era (1939–1974) Ammunition Storage Facilities, and the Program

Comment on Cold War era (1946–1974) Unaccompanied Personnel Housing, and accepts and adopts these Program Comments. The Department of the Army ensures that the effects of these undertakings on these categories of historic properties is taken into account by execution of the steps identified as treatment measures in the Program Comments, Sections II.A. Treatment measures vary by property type. For Cold War era Unaccompanied Housing, the Army will prepare a publicly available version of the existing context entitled “Unaccompanied Personnel Housing (UPH) During the Cold War (1946–1989).” For World War II and Cold War era Ammunition Storage Facilities, the Army will prepare a Historic Context on ammunition storage facilities that covers the Cold War era; a context entitled “Army Ammunition and Explosive Storage in the United States, 1775–1945” already exists. The Army will also prepare documentation of ammunition storage facilities at nine installations, six of which have World War II-era properties, and three of which have Cold War era properties. For the World War II and Cold War era Army Ammunition Facilities and Plants, the Army will prepare a Historic Context, and develop documentation of selected architecturally significant ammunition production facilities and Plants at two installations. Finally, the Army will prepare a display and popular publication on the ammunition production process, from production to storage. The full text of the Program Comments can be found on the DENIX Web site at <http://www.denix.osd.mil/ProgramAlternatives>.

The Army also announces the availability of the final Environmental Assessment (EA) and signed Finding of No Significant Impact (FONSI) for the Program Comment process. Notice of the availability of the draft EA and FONSI was published in the **Federal Register** on October 26, 2004, Vol. 69, No. 206, pp. 62431–62432. The Army considered all public comments received on the draft before finalizing the EA and FONSI. Copies of the final EA and FONSI are available at <http://www.denix.osd.mil/ProgramAlternatives>.

**Authority:** 36 CFR 800.14(e)

Dated: May 16, 2007.

**John M. Fowler,**  
Executive Director.

[FR Doc. 07–2506 Filed 5–18–07; 8:45 am]

**BILLING CODE 4310–K6–M**

**DEPARTMENT OF AGRICULTURE****Submission for OMB Review;  
Comment Request**

May 16, 2007.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13. Comments regarding (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), [OIRA\\_Submission@OMB.EOP.GOV](mailto:OIRA_Submission@OMB.EOP.GOV) or fax (202) 395-5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250-7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720-8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

**Animal and Plant Health Inspection Service**

*Title:* U.S. Origin Health Certificate.  
*OMB Control Number:* 0579-0020.

*Summary of Collection:* As part of its mission to facilitate the export of U.S. animals and products, the U.S. Department of Agriculture, Animal and Plant Health Inspection Service (APHIS), Veterinary Services (VS), maintains information regarding the import health requirements of other countries for animals and animal

products exported from the United States. Most countries require a certification that the animals are disease free. The VS form 17-140, U.S. Origin Health Certificate, is used to meet these requirements. The form is authorized by 21 U.S.C. 112.

*Need and Use of the Information:* The U.S. Origin Health Certificate is used in connection with the exportation of animals to foreign countries and is completed and authorized by APHIS veterinarian. The information collected is used to: (1) Establish that the animals are moved in compliance with USDA regulations, (2) verify that the animals destined for export are listed on the health certificate by means of an official identification, (3) verify to the consignor and consignee that the animals are healthy, (4) prevent unhealthy animals from being exported and (5) satisfy the import requirements of receiving countries. The collection of this information helps to prevent unhealthy animals from being exported from the United States. If these certifications were not provided, other countries would not accept animals from the United States.

*Description of Respondents:* Farms; Business or other for-profit.

*Number of Respondents:* 3,067.

*Frequency of Responses:*

Recordkeeping; Reporting: On occasion.

*Total Burden Hours:* 30,024.

**Animal and Plant Health Inspection Service**

*Title:* Interstate Movement of Certain Tortoises.

*OMB Control Number:* 0579-0156.

*Summary of Collection:* The Animal and Plant Health Inspection Service (APHIS) regulates the importation and interstate movement of certain animals and animal products to prevent the introduction into or dissemination within the United States of pests and diseases of livestock. The regulations in 9 CFR part 93 prohibit the importation of the leopard tortoise, the African spurred tortoise, and the Bell's hingeback tortoise to prevent the introduction and spread of exotic ticks known to be vectors of heartwater disease, an acute, infectious disease of cattle and other ruminants. The regulations in 9 CFR part 74 prohibit the interstate movement of those tortoises that are already in the United States unless the tortoises are accompanied by a health certificate or certificate of veterinary inspection.

*Need and Use of the Information:* APHIS will collect information to ensure that the interstate movement of these tortoises poses no risk of spreading exotic ticks within the United

States. The collected information is used for the purposes of identifying each specific tortoise and documenting the State of its health so that the animals can be transported across State and national boundaries. If the information is not collected APHIS would be forced to continue their complete ban on the interstate movement of leopard, African spurred, and Bell's hingeback tortoises, a situation that could prove economically disastrous for a number of U.S. tortoises breeders..

*Description of Respondents:*

Individuals or households; State, Local or Tribal Government.

*Number of Respondents:* 150.

*Frequency of Responses:* Reporting: On occasion.

*Total Burden Hours:* 249.

**Ruth Brown,**

*Departmental Information Collection Clearance Officer.*

[FR Doc. E7-9691 Filed 5-18-07; 8:45 am]

**BILLING CODE 3410-34-P**

**DEPARTMENT OF AGRICULTURE****Forest Service****Navy Timber Sale Environmental Impact Statement**

**AGENCY:** Forest Service, USDA.

**ACTION:** Revised Notice of Intent to prepare an Environmental Impact Statement.

**SUMMARY:** This NOI revises information supplied in the NOI previously published in the **Federal Register** Vol. 71, No. 14 (pages 3454-3455) on January 23, 2006. The Department of Agriculture, Forest Service, will prepare an Environmental Impact Statement (EIS) on a proposal to harvest timber in the Navy Timber Sale project area on the Wrangell Ranger District, Tongass National Forest. The Proposed Action is to harvest 54 million board feet of sawtimber and 7.7 million board feet of utility from approximately 4,700 acres in one or more offerings and would construct approximately 17 miles of National Forest System road and 16 miles of temporary road to facilitate access for logging. The Proposed Action includes harvest units and road construction within Inventoried Roadless Areas, as identified in the Forest Plan SEIS. The Proposed Action includes the use of the existing Log Transfer Facility (LTF) at Anita Bay as well as the construction of a new LTF at the entrance to Burnett Inlet near Navy Creek. The Proposed Action includes a non-significant amendment to the Forest Plan to modify the



boundaries of the Burnett, Anita Bay, Mosman and Quiet small old-growth reserves. The Forest Supervisor will decide if and how much timber harvest and road building will occur within the project area, as well as modify the existing small old-growth reserves. The decision will be documented in a Record of Decision based on the information disclosed in the EIS.

**DATES:** A public mailing outlining the project timeline and public involvement opportunities (Schedule of Proposed Actions) was distributed quarterly from January 2006 to April 2007. Additional opportunities for comment will be provided after release of the Draft Environmental Impact Statement (DEIS). The DEIS is projected to be filed with the Environmental Protection Agency (EPA) in Fall 2007 and will begin a 45-day comment period. The Final Environmental Impact Statement (FEIS) and Record of Decision are anticipated to be published in Spring 2008.

**ADDRESSES:** Please send written comments to Wrangell Ranger District, Attn: Navy EIS, PO Box 51, Wrangell, AK 99929. Electronic comments can be e-mailed to [comments-alaska-tongass-wrangell@fs.fed.us](mailto:comments-alaska-tongass-wrangell@fs.fed.us). Please include the word "Navy" in the subject line.

**FOR FURTHER INFORMATION CONTACT:** Jamie Roberts, Planning Team Leader, or Mark Hummel, District Ranger, Wrangell Ranger District, P.O. Box 51, Wrangell, AK 99929, telephone (907) 874-2323.

**SUPPLEMENTARY INFORMATION:** The Navy project area is located on central Etolin Island approximately 22 air miles southwest of Wrangell, Alaska. The project area is within portions of Value Comparison Units #464, 465, 466, 467 and 468. Portions of three Inventoried Roadless Areas, North Etolin #232, Mosman #233 and South Etolin #234, as identified in the Forest Plan SEIS, are located within the project area. Timber harvest and road building is proposed within the Inventoried Roadless Areas. The project area includes four small old-growth reserves (Mosman, Quiet, Anita Bay and Burnett) as designated in the Forest Plan. A Forest Plan amendment would be required if a decision is made to modify any old-growth reserve. The Forest Supervisor will decide if and how much timber harvest and road building will occur within the project areas, as well as whether to modify the existing small old-growth reserves. The decision will be based on the information that is disclosed in the EIS. The Forest Supervisor will consider comments, responses, the disclosure of environmental effects, and applicable

laws, regulations, and policies in making the decision. The rationale for the decision will be included in the Record of Decision.

**Purpose and Need for Action:** The purpose and need for the Navy Timber Sale is: (1) To manage suitable lands to achieve 1997 Forest Plan goals and objectives in order to reach the desired future conditions prescribed for the Land Use Designations; (2) to assist in providing a continuous wood supply to meet society's needs; (3) and to contribute to the job market and the overall economy of southeast Alaska.

**Public Participation:** Public participation has been an integral component of the study process and will continue to be especially important at several points during the analysis. The Forest Service will continue to seek information, comments and assistance from tribal governments, federal, state and local agencies, individuals and organizations that may be interested in or affected by the proposed activities. Written scoping comments have been solicited through a scoping package that was sent to persons on the project mailing list in November 2005. Additional written scoping comments have been solicited through a scoping package that was sent to persons on the project mailing list concurrent with the publication of the initial NOI in January 2006. Subsistence hearings, as provided for in Title VIII, Section 810 of the Alaska National Interest Lands Conservation Act (ANILCA), will be provided, if necessary, during the comment period on the DEIS.

**Electronic Filing Address:** Electronic comments can be e mailed to [comments-alaska-tongass-wrangell@fs.fed.us](mailto:comments-alaska-tongass-wrangell@fs.fed.us). Please include the word "Navy" in the subject line.

**Issues:** Based on the comments received from the public and resource specialists the issues identified for analysis in the EIS include: (1) The effect of timber harvest on the local and regional economies; (2) the effect of the location of small Old-growth Reserves on wildlife habitat; (3) the effect of habitat fragmentation, due to harvest and road building, on wildlife habitat; (4) the effect of timber harvest and road construction on Inventories Roadless Areas and unroaded areas; (5) and effects to aquatic resources and from increased access in the Navy Drainage due to timber harvest, road construction and LTF construction.

**Range of Alternatives:** The range of alternatives that are being developed to respond to the significant issues, besides no action, range from 18-98 million board feet.

**Draft Environmental Impact Statement:** A Draft Environmental Impact Statement (DEIS) will be prepared for comment. The comment period on the DEIS will be 45 days from the date the Environmental Protection Agency publishes the Notices of Availability in the **Federal Register**. The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of Draft Environmental Impact Statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp. v. NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the DEIS stage but that are not raised until after completion of the Final Environmental Impact Statement (FEIS) may be waived or dismissed by the courts. *City of Angoon v. Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc. v. Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the FEIS. To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the DEIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the DEIS or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points. Comments received, including the names and addresses of those who comment, will be considered part of the public record on this proposal and will be available for public inspection.

**Responsible Official:** Forrest Cole, Forest Supervisor, Tongass National Forest, Federal Building, Ketchikan, Alaska 99901, is the responsible official. The responsible official will consider comments, responses, the disclosure of environmental effects, and applicable laws, regulations, and policies in

making the decision. The rationale for the decision will be included in the Record of Decision.

(Authority: 40 CFR 1501.7 and 1508.22; Forest Service Handbook 1909.15, Section 21)

Dated: May 14, 2007.

**Forrest Cole,**

*Forest Supervisor.*

[FR Doc. 07-2507 Filed 5-18-07; 8:45 am]

**BILLING CODE 3410-11-M**

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

#### Deemed Export Advisory Committee; Notice To Solicit Meeting Speakers and Presentations

The Deemed Export Advisory Committee (DEAC), which advises the Secretary of Commerce on deemed export licensing policy, will meet on Tuesday, June 19, 2007 from approximately 8:30 a.m. to 12:30 p.m. The DEAC is a Federal Advisory Committee that was established under the auspices of the Federal Advisory Committee Act, as amended, 5 U.S.C. app. 2. The meeting location will be Boston, MA, with exact details to be announced in a subsequent Federal Register Notice. At this time, the Department of Commerce, Bureau of Industry and Security (BIS), would like to solicit stakeholders from industry, academia and other backgrounds to address the DEAC members on June 19 in an open session on issues related to deemed exports and, in particular, their organizations' perspectives and concerns related to U.S. deemed export control policies. Stakeholders are those individuals or organizations who have some experience in or knowledge of export control regulations and policies, who must apply these rules in the course of normal business or whose operations are directly impacted by those export regulations and policies mandated by the U.S. government. BIS seeks to have an equal number of presenters from industry, academia, and other backgrounds. There may be up to three presenters from each group and speaking time may be limited to 10 minutes or less per speaker depending on the number of interested parties. Speakers may be selected on the basis of one or more of the following criteria (not in any order of importance): (1) Demonstrated experience in and knowledge of export control regulations; (2) demonstrated ability to provide DEAC members with relevant information related to deemed export

policies and issues; (3) the degree to which the organization is impacted by the U.S. Government's export policies and regulations; and (4) industry area or academic type of institution represented. BIS reserves the right to limit the number of participants based on time considerations. For planning purposes, BIS requests that (1) that interested parties inform BIS of their commitment, via e-mail or telephone call, to address the DEAC no later than 5 p.m. EST May 30, 2007, as well as provide a brief outline of the topics to be discussed by this same deadline; and, (2) that once interested parties receive confirmation of their participation at the meeting, they provide either an electronic or paper copy of any prepared remarks/presentations no later than 5 p.m. EST June 12, 2007. Interested parties may contact Ms. Yvette Springer at [Yspringer@bis.doc.gov](mailto:Yspringer@bis.doc.gov) or (202) 482-2813. The purpose of this solicitation is only to accept speakers for the June 19, 2007 DEAC meeting. However, all members of the public may submit written comments to BIS at any time for the DEAC's consideration.

Dated: May 16, 2007.

**Yvette Springer,**

*Committee Liaison Officer.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-806]

#### Silicon Metal From the People's Republic of China: Preliminary Results of the 2005/2006 New Shipper Reviews

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce ("the Department") is currently conducting the 2005/2006 new shipper reviews of the antidumping duty order on silicon metal from the People's Republic of China ("PRC"). We preliminarily determine that sales have been made below normal value ("NV") with respect to certain exporters and that certain exporters are entitled to a separate rate in the new shipper reviews. If these preliminary results are adopted in our final results of these reviews, we will instruct U.S. Customs and Border Protection ("CBP") to assess antidumping duties on entries of subject merchandise during the period of review ("POR") for which the importer-specific assessment rates are above *de minimis*.

Interested parties are invited to comment on these preliminary results. We will issue the final results no later than 120 days from the date of publication of this notice.

**EFFECTIVE DATE:** May 21, 2007.

**FOR FURTHER INFORMATION CONTACT:** Scot Fullerton or Christopher Riker, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1386 or (202) 482-3441, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Department received timely requests from Shanghai Jinneng International Trade Co., Ltd. ("Shanghai Jinneng") and Jiangxi Gangyuan Silicon Industry Co., Ltd. ("Jiangxi Gangyuan") on June 23, 2006, pursuant to section 751(a)(2)(B) the Tariff Act of 1930, as amended ("the Act"), and in accordance with 19 CFR 351.214(c), for new shipper reviews of the antidumping duty order on silicon metal from the PRC. See *Antidumping Duty Order: Silicon Metal From the People's Republic of China*, 56 FR 26649 (June 10, 1991).

On June 2, 2006, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on silicon metal from the PRC. See *Notice of Opportunity to Request Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation*, 71 FR 32032 (June 2, 2006).

On July 25, 2006, the Department initiated new shipper reviews of Shanghai Jinneng and Jiangxi Gangyuan covering the period June 1, 2005, through May 31, 2006. See *Silicon Metal From the People's Republic of China: Initiation of Antidumping Duty New Shipper Reviews*, 71 FR 42084 (July 25, 2006).

On December 21, 2006, the Department extended the deadline for the preliminary results of the new shipper reviews until May 14, 2007. See *Notice of Extension of the Preliminary Results of New Shipper Antidumping Duty Reviews: Silicon Metal from the People's Republic of China*, 71 FR 76637 (December 21, 2006).

##### Scope of Order

The product covered by the order and this review is silicon metal containing at least 96.00 but less than 99.99 percent of silicon by weight, and silicon metal with a higher aluminum content containing between 89 and 96 percent

silicon by weight. The merchandise under investigation is currently classifiable under item numbers 2804.69.10 and 2804.69.50 of the *Harmonized Tariff Schedule of the United States* ("HTSUS") as a chemical product, but is commonly referred to as a metal. Semiconductor-grade silicon (silicon metal containing by weight not less than 99.99 percent of silicon and provided for in subheading 2804.61.00 of the HTSUS) is not subject to this order. This order is not limited to silicon metal used only as an alloy agent or in the chemical industry. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise is dispositive.

### Respondents

On July 26, 2006, we issued antidumping duty questionnaires to Shanghai Jinneng and Jiangxi Gangyuan. See letters to Shanghai Jinneng and Jiangxi Gangyuan from Christopher D. Riker, Program Manager, China/NME Group, Office 9, Import Administration, regarding *Silicon Metal from the People's Republic of China, New Shipper Review* (6/1/05 - 5/31/06), (July 26, 2006).

On August 31, 2006, both Shanghai Jinneng and Jiangxi Gangyuan responded to section A of the Department's questionnaire. The Department received responses to sections C & D of its questionnaire from both Shanghai Jinneng and Jiangxi Gangyuan on September 18, 2006. On October 2, 2006, the Department received responses to its importer questionnaire from both Shanghai Jinneng and Jiangxi Gangyuan.

On September 28, 2006, the Department issued a supplemental section A questionnaire to Jinagxi Gangyuan. On October 18, 2006, the Department issued a second supplemental questionnaire to Jiangxi Gangyuan. On October 27, 2006, the Department issued a supplemental questionnaire to Shanghai Jinneng. On November 3, 2006, Jiangxi Gangyuan submitted its response to the Department's supplemental section A questionnaire. On November 16, 2006, Jiangxi Gangyuan submitted its response to the Department's second supplemental questionnaire. On December 4, 2006, Shanghai Jinneng submitted its response to the Department's October 27, 2006, questionnaire.

On February 2, 2007, the Department issued a third supplemental questionnaire to Jiangxi Gangyuan. On March 5, 2007, Jinagxi Gangyuan submitted its response to the third

supplemental questionnaire. On March 6, 2007, the Department issued a second supplemental response to Shanghai Jinneng. Shanghai Jinneng submitted its response to the Department's second questionnaire on March 28, 2007.

### Surrogate Country and Factors

On October 19, 2006, the Department provided parties with an opportunity to submit publicly available information ("PAI") on surrogate countries and values for consideration in these preliminary results. See Letter to All Interested Parties, from Christopher D. Riker, Program Manager, AD/CVD Operations, Office 9, regarding *2005/2006 New Shipper Reviews of Silicon Metal from the People's Republic of China* (October 19, 2006). On November 6, 2006, however, the Department extended the deadline for the aforementioned comments until December 29, 2006. See Letter to All Interested Parties, from Christopher D. Riker, Program Manager, AD/CVD Operations, Office 9, Import Administration, regarding *2005/2006 New Shipper Reviews of Silicon Metal from the People's Republic of China: Deadline for Submitting Comments on Surrogate Country Selection and Publicly Available Information to Value Factors of Production* (November 6, 2006). Furthermore, on December 21, 2006, in response to a request by Globe Metallurgical Inc., the petitioner, the Department extended the deadline again, until February 15, 2007. See Letter to All Interested Parties, from Christopher D. Riker, Program Manager, AD/CVD Operations, Office 9, Import Administration, regarding *2005/2006 New Shipper Reviews of Silicon Metal from the People's Republic of China: Additional Extension of Deadline for Submitting Comments on Surrogate Country Selection and Publicly Available Information to Value Factors of Production* (December 21, 2006).

On February 15, 2007, the respondents<sup>1</sup> and petitioner both submitted comments on the selection of a surrogate country. See Letter to the U.S. Department of Commerce, from Shanghai Jinneng and Jiangxi Gangyuan, regarding *Silicon Metal from the People's Republic of China* (February 15, 2007) ("Respondents' First Submission"); see also Letter to the U.S. Department of Commerce, from petitioner, regarding *Silicon Metal from the People's Republic of China; New Shipper Reviews; Comments on Surrogate Country Selection* (February

15, 2007) ("Petitioner's First Submission"). On February 26, 2007, petitioner and the respondents both submitted comments rebutting the other party's February 15, 2007, comments on the selection of a surrogate country. See Letter to the U.S. Department of Commerce, from Shanghai Jinneng and Jiangxi Gangyuan, regarding *Silicon Metal from the People's Republic of China* (February 26, 2007) ("Respondents' Second Submission"), see also Letter to the U.S. Department of Commerce, from petitioner, regarding *Silicon Metal from the People's Republic of China; New Shipper Reviews; Rebuttal Comments and Factual Information regarding the Selection of a Surrogate Country and Surrogate Values* (February 26, 2007) ("Petitioner's Second Submission"). On March 8, 2007, petitioner rebutted the respondents' February 26, 2007, rebuttal comments. See Letter to the U.S. Department of Commerce, from petitioner, regarding *Silicon Metal from the People's Republic of China; New Shipper Reviews; Rebuttal Comments and Factual Information regarding the Selection of a Surrogate Country and Surrogate Values* (March 8, 2007) ("Petitioner's Third Submission"). On March 14, 2007, respondents submitted rebuttal comments on petitioner's March 8, 2007, submission (see Letter to the U.S. Department of Commerce, from Shanghai Jinneng and Jiangxi Gangyuan, regarding *Silicon Metal from the People's Republic of China* (March 14, 2007) ("Respondents' Third Submission")), and on March 16, 2007, petitioner responded to the respondents' March 14, 2007, submission (see Letter to the U.S. Department of Commerce, from petitioner, regarding *Silicon Metal from the People's Republic of China; New Shipper Reviews; Response to Respondents' March 13 Letter* (March 16, 2007)).

On April 6, 2007, petitioner submitted rebuttal surrogate value data (see Letter to the U.S. Department of Commerce, from petitioner, regarding *Silicon Metal from the People's Republic of China; New Shipper Review; Submission of Rebuttal Surrogate Value Factual Information and Comments* (April 6, 2007)). On April 20, 2007, respondents responded to the preceding petitioner surrogate value submission (see Letter to U.S. Department of Commerce, from Shanghai Jinneng and Jiangxi Gangyuan, regarding *Silicon Metal from the People's Republic of China: Surrogate Value Rebuttal* (April 20, 2007)). Finally, petitioner submitted surrogate value information and comments on April 27, 2007 (see Letter to the U.S.

<sup>1</sup> The respondents are Shanghai Jinneng International Trade Co., Ltd. and Jiangxi Gangyuan Silicon Industry Company, Ltd.

Department of Commerce, from petitioner, regarding *Silicon Metal from the People's Republic of China: New Shipper Review; Submission of Rebuttal Surrogate Value Factual Information and Comments* (April 27, 2007)).

#### Verification

The Department verified the questionnaire responses of Jiangxi Gangyuan on April 4–6, 2007, and Shanghai Jinneng on April 9–10, 2007 (which included a verification of Shanghai Jinneng's affiliated producer, Datong Jinneng, on April 11–12, 2007). For these companies, we used standard verification procedures, including on-site inspection of the manufacturers' and exporters' facilities, and examination of relevant sales and financial records. Our verification results are outlined in the verification report for each company. For a further discussion, see Memorandum to the File, through Christopher D. Riker, Program Manager, AD/CVD Operation, Office 9, from Scot T. Fullerton, Senior International Trade Compliance Analyst, regarding Verification of the Questionnaire Responses of Jiangxi Gangyuan Silicon Industry Co., Ltd., in the Antidumping New Shipper Review of Silicon Metal from the People's Republic of China ("Jiangxi Gangyuan Verification Report"); see also Memorandum to the File, through Christopher D. Riker, Program Manager, AD/CVD Operation, Office 9, from Scot T. Fullerton, Senior International Trade Compliance Analyst, and Michael J. Quigley, International Trade Compliance Analyst, regarding Verification of the Questionnaire Responses of Shanghai Jinneng International Trade Co., Ltd., in the Antidumping New Shipper Review of Silicon Metal from the People's Republic of China ("Shanghai Jinneng Verification Report"); and see also Memorandum to the File, through Christopher D. Riker, Program Manager, AD/CVD Operation, Office 9, from Scot T. Fullerton, Senior International Trade Compliance Analyst, and Michael J. Quigley, International Trade Compliance Analyst, regarding Verification of the Questionnaire Responses of Shanghai Jinneng that relate to Datong Jinneng Industrial Silicon Co., Ltd., in the Antidumping New Shipper Review of Silicon Metal from the People's Republic of China ("Datong Jinneng Verification Report").

#### Bona Fide Sale Analysis - Shanghai Jinneng & Jiangxi Gangyuan

For the reasons stated below, we preliminarily find that Shanghai Jinneng's and Jiangxi Gangyuan's

reported U.S. sales during the POR appear to be *bona fide* based on the totality of the facts on the record. Specifically, we find that: (1) The prices of Shanghai Jinneng's and Jiangxi Gangyuan's sales were within the range of the prices of other entries of subject merchandise from the PRC into the United States during the POR; (2) Shanghai Jinneng's and Jiangxi Gangyuan's sales were made to unaffiliated parties at arm's length; and (3) there is no record evidence that indicates that Shanghai Jinneng's and Jiangxi Gangyuan's sales were not made based on commercial principles. See Memorandum to James C. Doyle, Director, AD/CVD Operations, Office 9, Import Administration, through Christopher D. Riker, Program Manager, AD/CVD Operations, Office 9, from Michael J. Quigley, International Trade Analyst, AD/CVD Operations, Office 9, regarding *2005/2006 Antidumping Duty New Shipper Review of the Antidumping Duty Order on Silicon Metal from the People's Republic of China: Bona Fide Analysis of the Sale(s) Reported by Shanghai Jinneng International Trade Co., Ltd.* (May 11, 2007); see also Memorandum to James C. Doyle, Director, AD/CVD Operations, Office 9, through Christopher D. Riker, Program Manager, AD/CVD Operations, Office 9, from Scot T. Fullerton, Senior International Trade Analyst, AD/CVD Operations, Office 9, regarding *2005/2006 Antidumping Duty New Shipper Review of the Antidumping Duty Order on Silicon Metal from the People's Republic of China: Bona Fide Analysis of the Sale(s) Reported by Jiangxi Gangyuan Silicon Industry Co., Ltd.* (May 11, 2007).

#### Non-Market Economy Country

In every case conducted by the Department involving the PRC, the PRC has been treated as a non-market economy ("NME") country. Pursuant to section 771(18)(C)(i) of the Act, any determination that a foreign country is a NME country shall remain in effect until revoked by the administering authority. See, e.g., *Freshwater Crawfish Tail Meat from the People's Republic of China: Notice of Final Results of Antidumping Duty Administrative Review*, 71 FR 7013 (February 10, 2006). None of the parties to this proceeding has contested such treatment. Accordingly, we calculated NV in accordance with section 773(c) of the Act, which applies to NME countries.

#### Surrogate Country

Section 773(c)(4) of the Act requires the Department to value an NME producer's factors of production, to the

extent possible, in one or more market-economy countries that (A) are at a level of economic development comparable to that of the NME country, and (B) are significant producers of comparable merchandise. Of the five countries identified by the Office of Policy as economically comparable to the PRC, data supplied by respondents and petitioner indicate that both India and Egypt are both significant producers of merchandise comparable to silicon metal. The record, however, lacks Egyptian data to value quartzite (the source of silicon in silicon metal), charcoal, and rice straw, as well as contemporaneous Egyptian values for certain other inputs as well as freight. However, with respect to India, sufficient publicly available surrogate value information is available on the record. Therefore, we used India as the primary surrogate country to value all inputs. See Memorandum to the File, through Christopher D. Riker, Program Manager, AD/CVD Operations, Office 9, from Michael J. Quigley, International Trade Analyst, AD/CVD Operations, Office 9, regarding *Surrogate Values Used for the Preliminary Results of the 2005–2006 New Shipper Reviews of Silicon Metal from the People's Republic of China* (May 11, 2007) ("Factor Valuation Memo").

For further discussion of our surrogate country selection, see Memorandum to the File, through James C. Doyle, Director, AD/CVD Operations, Office 9 and Christopher D. Riker, Program Manager, AD/CVD Operations, Office 9, from Michael J. Quigley, International Trade Analyst, AD/CVD Operations, Office 9, regarding *Antidumping Duty New Shipper Reviews of Silicon Metal from the People's Republic of China: Selection of a Surrogate Country* (May 11, 2007) ("Surrogate Country Memorandum").

#### Separate Rates

To establish whether a company operating in an NME is sufficiently independent to be entitled to a separate rate, the Department analyzes each exporting entity under the test established in the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) ("Sparklers"), as amplified by the *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994). Under the separate-rates criteria, the Department assigns separate rates in NME cases only if the respondent can demonstrate the absence of both *de jure* and *de facto*

governmental control over export activities.

#### *De Jure Control*

The Department considers the following criteria in determining whether an individual company is free of *de jure* absence of government control over export activities: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies. See *Sparklers*, 56 FR at 20588.

In their questionnaire responses, Shanghai Jinneng and Jiangxi Gangyuan stated that they are independent legal entities, and placed evidence on the record that indicates that the PRC government does not have *de jure* control over their export activities. Shanghai Jinneng and Jiangxi Gangyuan submitted evidence of their legal right to set prices independent of governmental oversight. Furthermore, the business licenses of Shanghai Jinneng and Jiangxi Gangyuan indicate that they are permitted to engage in the exportation of silicon metal. We also found no evidence of *de jure* governmental control restricting Shanghai Jinneng's and Jiangxi Gangyuan's exportation of silicon metal.

The following laws, which have been placed on the record of this review, indicate a lack of *de jure* government control. The *Company Law of the People's Republic of China*, made effective on July 1, 1994, with the amended version promulgated on August 28, 2004, states that a company is legal entity, that shareholders shall assume liability towards the company to the extent of their shareholdings and that the company shall be liable for its debts to the extent of all its assets. Shanghai Jinneng and Jiangxi Gangyuan also provided copies of the *Foreign Trade Law of the PRC*, promulgated on May 12, 1994, which identifies the rights and responsibilities of organizations engaged in foreign trade, grants autonomy to foreign-trade operators in management decisions and establishes the foreign trade operator's accountability for profits and losses. The Department, therefore, preliminarily determines that there is an absence of *de jure* control over the export activities of Shanghai Jinneng and Jiangxi Gangyuan.

#### *De Facto Control*

The Department typically considers four factors in evaluating whether a respondent is subject to *de facto*

government control over its exports: (1) Whether each exporter sets its own export prices independently of the government and without the approval of a government authority; (2) whether each exporter retains the proceeds from its sales and makes independent decisions regarding the disposition of profits or financing of losses; (3) whether each exporter has the authority to negotiate and sign contracts and other agreements; and (4) whether each exporter has autonomy from the government regarding the selection of management. See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China*, 60 FR 22544, 22545 (May 8, 1995).

Shanghai Jinneng and Jiangxi Gangyuan have both asserted the following:

(1) Each establishes its own export prices; (2) each negotiates contracts without guidance from any governmental entities or organizations; (3) each makes its own personnel decisions; and

(4) each retains the proceeds of its export sales, uses profits according to its business needs, and has the authority to sell its assets and to obtain loans. Moreover, the Department verified that Shanghai Jinneng and Jiangxi Gangyuan are free of *de facto* government control. Based upon information on the record, there is a sufficient basis to preliminarily determine that Shanghai Jinneng and Jiangxi Gangyuan have demonstrated an absence of *de facto* governmental control over their export functions. Therefore, because Shanghai Jinneng and Jiangxi Gangyuan operate free of *de jure* and *de facto* government control, the Department has preliminarily determined that Shanghai Jinneng and Jiangxi Gangyuan have satisfied the criteria for separate rates based on the documentation each has submitted on the record.

#### **Normal-Value Comparisons**

To determine whether Shanghai Jinneng's and Jiangxi Gangyuan's sales of the subject merchandise to the United States were made at prices below NV, their United States prices were compared to NV, as described in the "United States Price" and "Normal Value" sections of this notice.

#### *United States Price*

For Shanghai Jinneng and Jiangxi Gangyuan, the Department based U.S. price on export price ("EP") in accordance with section 772(a) of the Act, because the first sales to unaffiliated purchasers were made prior to importation, and constructed export

price ("CEP") was not otherwise warranted by the facts on the record. We calculated EP based on packed prices from the exporter to the first unaffiliated purchaser in the United States. Where applicable, foreign inland freight, foreign brokerage and handling expenses, and ocean freight were deducted from the starting price (gross unit price) in accordance with section 772(c) of the Act.

#### *Normal Value*

Section 773(c)(1) of the Act provides that the Department shall determine NV using a factors of production ("FOP") methodology if the merchandise is exported from an NME country and the available information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act and 19 CFR 351.408. The Department will base NV on the factors of production because the presence of government controls on various aspects of these economies renders price comparisons and the calculation of production costs invalid under its normal methodologies. See *Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent to Rescind in Part*, 70 FR 29744, 39754 (July 11, 2005) (unchanged in final results). See *Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, From the People's Republic of China: Final Results of 2003-2004 Administrative Review and Partial Rescission of Review*.

For purposes of calculating NV, we selected surrogate values for the PRC factors of production in accordance with section 773(c)(1) of the Act. Factors of production include, but are not limited to, hours of labor required, quantities of raw materials employed, amounts of energy and other utilities consumed, and representative capital costs, including depreciation. See section 773(c)(3) of the Act. In choosing surrogate values, we selected, where possible, a publicly available value which was an average country-wide, non-export value, representative of a range of prices within the POR or most contemporaneous with the POR, product-specific, and tax-exclusive. See, e.g., *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Chlorinated Isocyanurates from the People's Republic of China*, 69 FR 75294, 75300 (December 16, 2004) ("*Chlorinated Isocyanurates*"), unchanged in *Notice of*

*Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates From the People's Republic of China*, 70 FR 24502 (May 10, 2005). In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data. *See Manganese Metal from the People's Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 63 FR 12442 (March 13, 1998).

#### Factor Valuations

In accordance with section 773(c) of the Act, the Department calculated NV based on the FOPs reported by Shanghai Jinneng and Jiangxi Gangyuan for the POR. To calculate NV, the reported per-unit factor quantities was multiplied by publicly available surrogate values. As appropriate, we adjusted input prices by including freight costs to reflect delivered prices. For a detailed explanation of all surrogate values used for respondents, *see Factor Valuation Memo*.

Except where discussed below, we valued raw material inputs using June 2005–May 2006 weighted–average Indian import values derived from the *World Trade Atlas* online (“WTA”) (*see Factor Valuation Memo*). The Indian import statistics we obtained from the WTA were published by the Directorate General of Commercial Intelligence and Statistics, Ministry of Commerce of India and are contemporaneous with the POR. As the Indian surrogate values were denominated in rupees, they were converted to U.S. dollars using the exchange rate for India on the date of the applicable sale. The daily exchange rate was the exchange rate data from the Department’s website, which are taken from publicly available data from the Federal Reserve and Dow Jones. *See* <http://www.ia.ita.doc.gov/exchange/index.html>. Where we could not obtain publicly available information contemporaneous with the POR with which to value factors, we adjusted the publicly available information for inflation using Indian wholesale price indices (“WPIs”) as published in the *International Monetary Fund’s International Financial Statistics* (“IFS”). *See Factor Valuation Memo*.

In instances where we relied on Indian import data to value inputs, in accordance with the Department’s practice, we excluded imports from both NME countries and countries deemed to maintain broadly available, non-industry-specific subsidies which may benefit all exporters to all export markets (*i.e.*, Indonesia, South Korea, and Thailand) from our surrogate value calculations. *See, e.g., Final*

*Determination of Sales at Less Than Fair Value: Certain Automotive Replacement Glass Windshields from the People's Republic of China*, 67 FR 6482 (February 12, 2002) and accompanying Issues and Decision Memorandum at Comment 1. *See, also, Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstances: Certain Color Television Receivers From the People's Republic of China*, 68 FR 66800, 66808 (November 28, 2003), unchanged in the Department’s final determination at 69 FR 20594 (April 16, 2004). Additionally, imports that were labeled as originating from an “unspecified” country were excluded from the average value, because the Department could not be certain that they were not from either an NME or a country with generally available export subsidies.

#### Surrogate Valuations

To value the input of quartzite, data from the 2005 edition of the Indian Minerals Yearbook published by the Indian Bureau of Mines that accounted for the period April 2004 through March 2005. This data precedes the POR and was adjusted for inflation. *See Factor Valuation Memo*, Attachment 3.

To value charcoal, we used Indian import data that accounted for the POR from the *Monthly Statistics* for HTS number 4402. This data coincides with the POR and was not adjusted for inflation. *See Factor Valuation Memo*, Attachment 5.

To value carbon electrodes, we used Indian import data that accounted for the POR from the *Monthly Statistics* for HTS number 8545.11.00. This data coincides with the POR and was not adjusted for inflation. *See Factor Valuation Memo*, Attachment 5.

To value petroleum coke, we used Indian import data that accounted for the POR from the *Monthly Statistics* for HTS numbers 2713.11.00 (petroleum coke not calcined). This data coincides with the POR and was not adjusted for inflation. *See Factor Valuation Memo*, Attachment 5.

To value coal, we used Indian import data that accounted for the POR from the *Monthly Statistics* for HTS number 2719.10.20, for steam coal. This data coincides with the POR and was not adjusted for inflation. *See Factor Valuation Memo*, Attachment 5.

To value fuel wood, we used Indian import data that accounted for the POR from the *Monthly Statistics* for HTS numbers 4401.10. This data coincides with the POR and was not adjusted for

inflation. *See Factor Valuation Memo*, Attachment 5.

To value rice straw, we used Indian import data that accounted for the POR from the *Monthly Statistics* for HTS numbers 1213.00.00. The data coincides with the POR and was not adjusted for inflation. *See Factor Valuation Memo*, Attachment 5.

To value silica fume, we used Indian import data that accounted for the POR from the *Monthly Statistics* for HTS numbers 2811.22.00. This data coincides with the POR and was not adjusted for inflation. *See Factor Valuation Memo*, Attachment 5.

To value the bags used as packing materials for subject merchandise and silica fume, we used Indian import data that accounted for the POR from the *Monthly Statistics* for HTS number 6305.33.00. This data coincides with the POR and was not adjusted for inflation. *See Factor Valuation Memo*, Attachment 5.

Section 351.408(c)(3) of the Department’s regulations requires the use of a regression-based wage rate. Therefore, to value the labor input, the Department used the regression-based wage rate for the PRC published by Import Administration on its website. *See* <http://www.ia.ita.doc.gov/wages/index.html>.

We valued electricity using rates from *Key World Energy Statistics 2003*, published by the International Energy Agency (“IEA”). We adjusted the rate to make it contemporaneous with the POR. *See Factor Valuation Memo*, Attachment 7.

To value truck freight expenses for both raw materials and subject merchandise, we used an average rate per kilometer per metric ton calculated from data obtained from the web site of an Indian transport company, InFreight Technologies India Ltd. This data coincides with the POR and was not adjusted for inflation. *See Factor Valuation Memo*, Attachment 8.

To value rail freight expenses for the shipment of petroleum coke, we used the rail freight tariff in effect for August 2004 as published by Indian Railways, and inflated it for the POR. *See Factor Valuation Memo*, Attachment 9.

To value SG&A, factory overhead and profit, the Department used the 2005–2006 financial statements from Indsil Eletrosmelts Limited and Nava Bharat Ferro Alloys Limited. *See Factor Valuation Memo*, Attachment 10.

We also note that Jiangxi Gangyuan erred in reporting the total product used in the calculation of the factors of production. Therefore, for purposes of these preliminary results, we are amending the reported total production



figure. For a more detailed explanation, see Jiangxi Gangyuan Verification Report; see also Memorandum to the File from Scot T. Fullerton, Senior International Trade Compliance Analyst, through Christopher D. Riker, Program Manager, AD/CVD Operations, Office 9, regarding, Silicon Metal From the People's Republic of China - Analysis Memorandum for the Preliminary Results of New Shipper Review Jiangxi Gangyuan Industry Silicon Co., Ltd. Calculation Memorandum (May 11, 2007).

Finally, we also note that Shanghai Jinneng erred in reporting its silica fume bags, and labor consumption. Therefore, for purposes of these preliminary results, we are amending the calculated consumption of both the silica fume bags and labor calculation. For a more detailed explanation, see Datong Jinneng Verification Report; see also Memorandum to the File from Michael Quigley, International Trade Compliance Analyst, through Christopher D. Riker, Program Manager, AD/CVD Operations, Office 9, regarding, Silicon Metal From the People's Republic of China - Analysis Memorandum for the Preliminary Results of New Shipper Review Shanghai Jinneng International Trade Co., Ltd. Calculation Memorandum (May 11, 2007).

#### Currency Conversions

We made currency conversions using exchange rates obtained from the website of Import Administration at <http://ia.ita.doc.gov/exchange/index.html>.

#### Preliminary Results of Reviews

We preliminarily determine that the following margins exist for Shanghai Jinneng and Jiangxi Gangyuan during the period June 1, 2005, through May 31, 2006:

#### SILICON METAL FROM THE PRC

Company	Weighted-Average Margin (Percent)
Shanghai Jinneng International Trade Co., Ltd. ....	80.74
Jiangxi Gangyuan Silicon Industry Co., Ltd.	124.79

We will disclose the calculations used in our analysis to parties to these proceedings within five days of the date of publication of this notice.

Case briefs from interested parties may be submitted not later than 30 days of the date of publication of this notice, pursuant to 19 CFR 351.309(c). Rebuttal briefs, limited to issues raised in the

case briefs, will be due five days later, pursuant to 19 CFR 351.309(d). Parties who submit case or rebuttal briefs in this proceeding are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument. Parties are also encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited.

Any interested party may request a hearing within 30 days of publication of this notice. Interested parties who wish to request a hearing or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration within 30 days of the date of publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. See 19 CFR 351.310(c). Issues raised in the hearing will be limited to those raised in the briefs.

The Department will issue the final results of these reviews, including the results of its analysis of issues raised in any such written briefs or at the hearing, if held, not later than 120 days after the date of publication of this notice.

#### Assessment Rates

Pursuant to 19 CFR 351.212(b), the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department intends to issue appropriate assessment instructions directly to CBP 15 days after publication of the final results of these new shipper reviews. For assessment purposes, where possible, we calculated importer-specific assessment rates for silicon metal from the PRC via \ duty assessment rates based on the ratio of the total amount of the dumping margins calculated for the examined sales to the total entered value of those same sales. We will instruct CBP to assess antidumping duties on all appropriate entries covered by these new shipper reviews if any assessment rate calculated in the final results of this review is above *de minimis*. The final results of these new shipper reviews shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of these reviews and for future deposits of estimated duties, where applicable.

#### Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of these reviews for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or

after the publication date, as provided for by section 751(a)(2)(c) of the Act: (1) For the manufacturers/exporters listed above, the cash deposit rate will be that established in the final results of this review (except, if the rate is zero or *de minimis*, no cash deposit will be required); (2) for subject merchandise exported by Shanghai Jinneng or Jiangxi Gangyuan, but not manufactured by Datong Jinneng or Jiangxi Gangyuan, respectively, the cash deposit rate will continue to be the PRC-wide rate (*i.e.*, 139.49 percent); and (3) for subject merchandise produced by Jiangxi Gangyuan or Datong Jinneng but not exported by Jiangxi Gangyuan or Shanghai Jinneng, respectively, the cash deposit rate will be the rate applicable to the exporter. These cash deposit requirements, when imposed, should remain in effect until further notice.

#### Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

These new shipper reviews and notice are in accordance with sections 751(a)(1), 751(a)(2)(B), and 777(i) of the Act and 19 CFR 351.213 and 351.214.

Dated: May 11, 2007.

David M. Spooner,  
Assistant Secretary for Import  
Administration.

[FR Doc. E7-9703 Filed 5-18-07; 8:45 am]

BILLING CODE 3510-DS-S

## DEPARTMENT OF COMMERCE

### International Trade Administration

#### North American Free Trade Agreement (NAFTA), Article 1904; Binational Panel Reviews: Notice of Termination of Panel Review

**AGENCY:** NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

**ACTION:** On April 18, 2007, a Notice of Motion to Terminate the Panel Review of the Final Determination of the Antidumping Investigation on Imports of Fresh Apples, merchandise classified in tariff item 08.08.10.01 from the United States of America, independent

of the country of origin was filed on behalf of Domex Marketing, Inc., L&M Companies Inc., Nuchief Sales, Inc., Oneonata Trading Corporation, PAC Marketing International, LLC., Rainier Fruit Company and Sage Marketing LLC., “(las Reclamantes)”. Union Agrícola Regional de Fruticultores del Estado de Chihuahua A.C., filed a notice of motion requesting termination in support of Domex and the others regarding Secretariat File No. MEX-USA-2003-1904-02.

**SUMMARY:** Pursuant to the Notice of Motion to Terminate the Panel Review and support of that motion, the panel review is terminated as of May 3, 2007. A panel has not been appointed to this panel review. Pursuant to Rule 71(2) of the *Rules of Procedure for Article 1904 Binational Panel Review*, this panel review is terminated.

**FOR FURTHER INFORMATION CONTACT:** Caratina L. Alston, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 482-5438.

**SUPPLEMENTARY INFORMATION:** Chapter 19 of the North American Free-Trade Agreement (“Agreement”) establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* (“Rules”). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686). The panel review in this matter was requested and terminated pursuant to these Rules.

Dated: May 15, 2007.

**Caratina L. Alston,**  
United States Secretary, NAFTA Secretariat.  
[FR Doc. E7-9662 Filed 5-18-07; 8:45 am]

**BILLING CODE 3510-GT-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 041307C]

#### Endangered and Threatened Species; Recovery Plans

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration, Commerce.

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** NMFS announces the availability of the Draft Revised Recovery Plan (Draft Revised Plan), dated May 2007, for the western and eastern distinct population segments (DPS) of Steller sea lion (*Eumetopias jubatus*). NMFS is soliciting review and comment on the Draft Revised Plan from all interested parties. Due to continued and substantial public interest in the recovery plan to-date, NMFS is releasing an updated version of the Draft Revised Plan for additional review and written comments.

**DATES:** Comments on the Draft Revised Plan must be received by close of business on August 20, 2007.

**ADDRESSES:** Send comments to Kaja Brix, Assistant Regional Administrator, Protected Resources Division, Alaska Region, NMFS, Attn: Ellen Walsh. Comments may be submitted by:

- E-mail: [SSLRP@noaa.gov](mailto:SSLRP@noaa.gov). Include in the subject line the following document identifier: Sea Lion Recovery Plan. E-mail comments, with or without attachments, are limited to 5 megabytes.

- Mail: P.O. Box 21668, Juneau, AK 99802.

- Hand delivery to the Federal Building: 709 West 9th Street, Juneau, AK.

- Fax: (907) 586 7012.

Interested persons may obtain the Draft Revised Plan for review from the above address or online from the NMFS Alaska Region website: <http://www.fakr.noaa.gov/>.

**FOR FURTHER INFORMATION CONTACT:** Kaja Brix, (907 586 7235), e-mail [kaja.brix@noaa.gov](mailto:kaja.brix@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

Recovery plans are guidance documents that describe the actions considered necessary for the conservation and recovery of species listed under the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 *et seq.*). Development and implementation of a recovery plan helps

to ensure that recovery efforts utilize limited resources effectively and efficiently. The ESA requires the development of recovery plans for listed species, unless such a plan would not promote the recovery of a particular species. The ESA requires that recovery plans incorporate the following: (1) Objective, measurable criteria that, when met, would result in a determination that the species is no longer threatened or endangered; (2) site-specific management actions necessary to achieve the plan's goals; and (3) estimates of the time and costs required to implement recovery actions. NMFS will consider all substantive comments and information presented during the public comment period prior to finalizing the Steller Sea Lion Recovery Plan.

NMFS' goal is to restore endangered and threatened Steller sea lion (*Eumetopias jubatus*) populations to levels at which they are secure, self-sustaining components of their ecosystems and no longer require the protections of the ESA. The Steller sea lion was listed as a threatened species under the ESA on April 5, 1990 (55 FR 12645), due to substantial declines in the western portion of the range. Critical habitat was designated on August 27, 1993 (58 FR 45269), based on the locations of terrestrial rookeries and haulouts, the spatial extent of foraging trips, and availability of prey. In 1997, Steller sea lions were reclassified as two DPSs under the ESA, a western DPS and an eastern DPS, based on demographic and genetic dissimilarities (62 FR 24345, 62 FR 30772). Due to a persistent population decline, the western DPS was reclassified as endangered at that time. The increasing eastern DPS remained classified as threatened. Through the 1990s, the western DPS continued to decline. Then between 2000 and 2004, the western population showed a growth rate of approximately three percent per year — the first recorded increase in the population since the 1970s. Based on recent counts, the western DPS is currently about 44,800 animals. The eastern DPS is currently between 45,000 and 51,000 animals and has been increasing at a rate of approximately three percent per year for 30 years.

The first Steller sea lion recovery plan was completed in December 1992 and encompassed the entire range of the species. However, the recovery plan became obsolete after the split into two DPSs in 1997. By that time, nearly all of the recovery actions recommended in the original plan were completed. In 2001, NMFS assembled a new recovery team to update the plan. The team was



comprised of members representing marine mammal and fishery scientists, the fishing industry, Alaska Natives, and environmental organizations. The recovery team completed a draft revision in February 2006, then solicited peer review on the draft recovery plan in accordance with NMFS' 1994 peer review policy. The team requested review from five scientists and managers with expertise in recovery planning, statistical analyses, fisheries, and marine mammals. In response to reviewers' comments, the team clarified the recovery criteria, added delisting criteria for the western DPS, and further refined priorities and recovery actions. In March 2006, the Team submitted the revised plan to NOAA Fisheries with unanimous endorsement from the 17 Team members.

In May 2006, NMFS released the draft Steller Sea Lion Recovery Plan for public review and comment (71 FR 29919). On July 20, 2006, NMFS extended the customary 60-day comment period until September 1, 2006 (71 FR 41206) to provide additional time for public review and comments. NMFS received comments from 18 individuals and organizations during the 100-day comment period. We reviewed these comments and incorporated recommendations into the Draft Revised Plan. A summary of public comments and NMFS' formal response to these comments are available online at <http://www.fakr.noaa.gov/>.

Due to extensive public interest and the controversial nature of this recovery plan, NMFS is releasing the Draft Revised Plan for another round of public reviews and comments. This will provide the public an opportunity to review changes made based on earlier public input and to provide further comments prior to release of the final Steller Sea Lion Recovery Plan.

## Overview

The Draft Revised Plan contains: (1) A comprehensive review of Steller sea lion ecology, (2) a review of previous conservation actions, (3) a threats assessment, (4) biological and recovery criteria for downlisting and delisting, (4) actions necessary for the recovery of the species, and (5) estimates of time and costs for recovery.

The threats assessment concludes that the following threats to the western DPS are relatively minor: Alaska Native subsistence harvest, illegal shooting, entanglement in marine debris, disease, and disturbance from vessel traffic and scientific research. Although much has been learned about Steller sea lions and the North Pacific ecosystem,

considerable uncertainty remains about the magnitude and likelihood of the following potential threats (relative impacts in parenthesis): competition with fisheries (potentially high), environmental variability (potentially high), killer whale predation (medium), incidental take by fisheries (low), and toxic substances (medium). In contrast, no threats were identified for the eastern DPS. Although several factors that affect the western DPS also affect the eastern DPS (e.g., environmental variability, killer whale predation, toxic substances, disturbance), these threats do not appear to be limiting recovery of the population at this time.

The Draft Revised Plan identifies an array of substantive actions that will foster recovery of the western DPS by addressing the broad range of threats. It highlights three actions (detailed below) that are especially important to the recovery program for the western DPS:

1. *Maintain current fishery conservation measures:* After a long-term decline, the western DPS appears to be stabilizing. The first slowing of the decline began in the 1990s, which suggests that management measures implemented in the early 1990s may have been effective in reducing anthropogenic effects (e.g., shooting, harassment, and incidental take). The apparent population stability observed in the last six years appears to be correlated with comprehensive fishery management measures implemented since the late 1990s. Therefore, the current suite of management actions (or their equivalent protection) should be maintained until substantive evidence demonstrates that these measures can be altered without inhibiting recovery.

2. *Design and implement an adaptive management program to evaluate fishery conservation measures:* A scientifically rigorous adaptive management program should be developed and implemented. A well-designed adaptive management plan has the potential to assess the relative impact of commercial fisheries on Steller sea lions and distinguish the impacts of fisheries from other threats (including killer whale predation). This program will require a robust experimental design with replication at appropriate temporal and spatial scales. It will be a challenge to construct an adaptive management plan that is statistically sound, meets the requirements of the ESA and can be implemented in a practicable manner.

3. *Continue population monitoring and research on the key threats potentially impeding sea lion recovery:* Estimates of population abundance and trends, spatial distribution, health, and

essential habitat characteristics are fundamental to Steller sea lion management and recovery. Current knowledge of the effects of primary threats on these parameters is insufficient to determine their relative impacts on species recovery. Focused research is needed to assess the effects of threats on sea lion population dynamics and identify suitable mitigation measures.

Criteria for reclassification of the eastern DPS and western DPS of Steller sea lion are included in the Draft Revised Plan. In summary, the western DPS of Steller sea lion may be reclassified from endangered to threatened status when all of the following have been met: (1) Counts of non-pups in the U.S. portion of the DPS have increased for 15 years (on average); (2) the population ecology and vital rates in the U.S. region are consistent with the observed trend; (3) the non-pup trends in at least five of the seven sub-regions are consistent with the overall U.S. trend, and the population trend in any two adjacent sub-regions can not be declining significantly; and (4) all five listing factors [as described in section 4(a)(1) of the ESA] are addressed.

The western DPS of Steller sea lion may be delisted when all of the following conditions have been met: (1) Counts of non-pups in the U.S. portion of the DPS have increased at an average annual rate of three percent for 30 years (i.e., 3 generations); (2) the population ecology and vital rates in the U.S. region are consistent with the observed trend; (3) the non-pup trends in at least five of the seven sub-regions are consistent with the overall U.S. trend, the population trend in any two adjacent sub-regions can not be declining significantly, and the population trend in any single sub-region can not have declined by more than 50 percent; and (4) all five listing factors are addressed.

The eastern DPS of Steller sea lion may be delisted when all of the following have been met: (1) The population has increased at an average rate of three percent per year for 30 years (i.e., three generations); (2) the population ecology and vital rates are consistent with the observed trend; and (4) all five listing factors are addressed.

Time and costs for recovery actions for the western DPS are estimated at \$93,840,000 for the first 5 fiscal years and \$430,425,000 for full recovery. The recovery program for the eastern DPS will cost an estimated \$150,000 for the first year and \$1,050,000 total, including 10 years of post-delisting monitoring.

**Public Comments Solicited**

NMFS solicits written comments on the draft Revised Recovery Plan. All substantive comments received by the date specified above will be considered prior to final approval of the Plan.

**Authority:** Section 4(f) of the ESA (16 U.S.C. 1531 *et seq.*).

Dated: May 16, 2007.

**Angela Somma,**

*Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. E7-9755 Filed 5-18-07; 8:45 am]

**BILLING CODE 3510-22-S**

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration**

**XRIN 0648-XA22**

**Fisheries of the Northeast Region; Overfished Determination of Winter Skate**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notification of overfished determination.

**SUMMARY:** This action serves as a notice that NMFS, on behalf of the Secretary of Commerce (Secretary), has determined that winter skate is overfished. NMFS notified the New England Fishery Management Council (Council) of its determination by letter. The Council is required to take action within 1 year following NMFS notification that overfishing is occurring or a stock is approaching overfishing, a stock is overfished or approaching an overfished condition, or existing remedial action taken to end overfishing or rebuild an overfished stock has not resulted in adequate progress.

**FOR FURTHER INFORMATION CONTACT:** Debra Lambert, telephone: (301) 713-2341.

**SUPPLEMENTARY INFORMATION:** Pursuant to sections 304(e)(2) and (e)(7) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1854(e)(2) and (e)(7), and implementing regulations at 50 CFR 600.310(e)(2), NMFS sends written notification to fishery management councils when overfishing is occurring or a stock is approaching overfishing; a stock is overfished or approaching an overfished condition, or existing action taken to end previously identified overfishing or

rebuilding a previously identified overfished stock or stock complex has not resulted in adequate progress. On February 20, 2007, the NMFS Northeast Regional Administrator sent a letter notifying the Council that winter skate is overfished.

A copy of the notification letter sent to the Council for the aforementioned determination is available at <http://www.nmfs.noaa.gov/sfa/statusoffisheries/SOSmain.htm>.

Within 1 year of a notification under Magnuson-Stevens Act sections 304(e)(2) or (e)(7), the respective Council must take remedial action in response to the notification, to end overfishing if overfishing is occurring; rebuild an overfished stock or stock complex to the abundance that can produce maximum sustainable yield within an appropriate time frame; prevent overfishing from occurring if a stock is approaching overfishing; and/or prevent a stock from becoming overfished if it is approaching an overfished condition (see implementing regulations at 50 CFR 600.310(e)(3)). Such action must be submitted to NMFS within 1 year of notification and may be in the form of a new fishery management plan (FMP), an FMP amendment, or proposed regulations.

Dated: May 16, 2007.

**James P. Burgess,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. E7-9753 Filed 5-18-07; 8:45 am]

**BILLING CODE 3510-22-S**

**COMMODITY FUTURES TRADING COMMISSION****Sunshine Act Meetings**

**TIME AND DATE:** 11 a.m., Friday, June 29, 2007.

**PLACE:** 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Surveillance Matters.

**CONTACT PERSON FOR MORE INFORMATION:** Eileen A. Donovan, 202-418-5100.

**Eileen A. Donovan,**

*Acting Secretary of the Commission.*

[FR Doc. 07-2528 Filed 5-17-07; 11:21 am]

**BILLING CODE 6351-01-M**

**COMMODITY FUTURES TRADING COMMISSION****Sunshine Act Meetings**

**TIME AND DATE:** 11 a.m., Friday, June 8, 2007.

**PLACE:** 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Surveillance Matters.

**CONTACT PERSON FOR MORE INFORMATION:** Eileen A. Donovan, 202-418-5100.

**Eileen A. Donovan,**

*Acting Secretary of the Commission.*

[FR Doc. 07-2529 Filed 5-17-07; 11:21 am]

**BILLING CODE 6351-01-M**

**COMMODITY FUTURES TRADING COMMISSION****Sunshine Act Meetings**

**TIME AND DATE:** 11 a.m., Friday, June 15, 2007.

**PLACE:** 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Surveillance Matters.

**CONTACT PERSON FOR MORE INFORMATION:** Eileen A. Donovan, 202-418-5100.

**Eileen A. Donovan,**

*Acting Secretary of the Commission.*

[FR Doc. 07-2530 Filed 5-17-07; 11:21 am]

**BILLING CODE 6351-01-M**

**COMMODITY FUTURES TRADING COMMISSION****Sunshine Act Meetings**

**TIME AND DATE:** 11 a.m., Friday, June 22, 2007.

**PLACE:** 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Surveillance Matters.

**CONTACT PERSON FOR MORE INFORMATION:** Eileen A. Donovan, 202-418-5100.

**Eileen A. Donovan,**

*Acting Secretary of the Commission.*

[FR Doc. 07-2531 Filed 5-17-07; 11:21 am]

**BILLING CODE 6351-01-M**

## COMMODITY FUTURES TRADING COMMISSION

### Sunshine Act Meetings

**TIME AND DATE:** 11 a.m., Friday, June 29, 2007.

**PLACE:** 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Surveillance Matters.

**CONTACT PERSON FOR MORE INFORMATION:** Eileen A. Donovan, 202-418-5100.

**Eileen A. Donovan,**

*Acting Secretary of the Commission.*

[FR Doc. 07-2532 Filed 5-17-07; 11:21 am]

**BILLING CODE** 6351-01-M

## COORDINATING COUNCIL ON JUVENILE JUSTICE AND DELINQUENCY PREVENTION

[OJP (OJJDP) Docket No. 1469]

### Meeting of the Coordinating Council on Juvenile Justice and Delinquency Prevention

**AGENCY:** Coordinating Council on Juvenile Justice and Delinquency Prevention.

**ACTION:** Notice of meeting.

**SUMMARY:** The Coordinating Council on Juvenile Justice and Delinquency Prevention (Council) is announcing its June 8, 2007 meeting.

**DATES:** Friday, June 8, 2007, 8:30 a.m. to 12:30 p.m.

**ADDRESSES:** The meeting will take place at the U.S. Department of Agriculture (USDA), Waterfront Centre, 800 Ninth Street, SW., in Meeting Room 1410.

**FOR FURTHER INFORMATION CONTACT:** Robin Delany-Shabazz, Designated Federal Official, by telephone at 202-307-9963 [Note: this is not a toll-free telephone number], or by e-mail at [Robin.Delany-Shabazz@usdoj.gov](mailto:Robin.Delany-Shabazz@usdoj.gov).

**SUPPLEMENTARY INFORMATION:** The Coordinating Council on Juvenile Justice and Delinquency Prevention, established pursuant to Section 3(2)A of the Federal Advisory Committee Act (5 U.S.C. App. 2) will meet to carry out its advisory functions under Section 206 of the Juvenile Justice and Delinquency Prevention Act of 2002, 42 U.S.C. 5601, *et seq.* Documents such as meeting announcements, agendas, minutes, and interim and final reports will be available on the Council's Web page at <http://www.JuvenileCouncil.gov>. (You

may also verify the status of the meeting at that web address.)

Although designated agency representatives may attend, the Council membership is composed of the Attorney General (Chair), the Secretary of Health and Human Services, the Secretary of Labor, the Secretary of Education, the Secretary of Housing and Urban Development, the Administrator of the Office of Juvenile Justice and Delinquency Prevention (Vice Chair), the Director of the Office of National Drug Control Policy, the Chief Executive Officer of the Corporation for National and Community Service, and the Assistant Secretary of Homeland Security for U.S. Immigration and Customs Enforcement. Up to nine additional members are appointed by the Speaker of the House of Representatives, the Senate Majority Leader, and the President of the United States.

### Meeting Agenda

The agenda for this meeting will include: (a) Opening remarks from USDA's Deputy Secretary Charles F. Conner; (b) a panel on the partnership between USDA's 4-H Programs and the military and the implications of that particular model of collaboration for federal coordination concerning children and youth issues; (c) reports from the Council's working groups; (d) legislative, program and agency updates; and (e) other business and announcements.

### Registration

For security purposes, members of the public who wish to attend the meeting must pre-register online at <http://www.juvenilecouncil.gov/>. Should problems arise with web registration, call Daryl Dunston at 240-221-4343 or send a request to register for the June 8, 2007 Council meeting to Mr. Dunston. Include name, title, organization or other affiliation, full address and phone, fax and email information and send to his attention either by fax at: 301-945-4295 or by e-mail to [ddunston@edjassociates.com](mailto:ddunston@edjassociates.com). Register no later than Friday, June 1, 2007. [Note: these are not toll-free telephone numbers.] Additional identification documents may be required. Space is limited.

**Note:** Photo identification will be required for admission to the meeting.

### Written Comments

Interested parties may submit written comments by Friday June 1, 2007, to Robin Delany-Shabazz, Designated

Federal Official for the Coordinating Council on Juvenile Justice and Delinquency Prevention, at [Robin.Delany-Shabazz@usdoj.gov](mailto:Robin.Delany-Shabazz@usdoj.gov). The Coordinating Council on Juvenile Justice and Delinquency Prevention expects that the public statements presented will not repeat previously submitted statements. Written questions and comments from the public may be invited at this meeting.

**J. Robert Flores,**

*Administrator, Office of Juvenile Justice and Delinquency Prevention.*

[FR Doc. 07-2517 Filed 5-18-07; 8:45 am]

**BILLING CODE** 4410-18-P

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### National Security Education Board Group of Advisors Meeting

**AGENCY:** Department of Defense.

**ACTION:** Notice of meeting.

**SUMMARY:** Pursuant to Public Law 92-463, notice is hereby given of a forthcoming meeting of the National Security Education Board Group of Advisors. The purpose of the meeting is to review and make recommendations to the Board concerning requirements established by the David L. Boren National Security Education Act, Title VIII of Public Law 102-183, as amended.

**DATES:** June 7-8, 2007.

**ADDRESSES:** University of Denver, Room 301 Ben M. Cherrington Hall, 2201 S. Gaylord Street, Denver, CO 80208.

**FOR FURTHER INFORMATION CONTACT:** Dr. Kevin Gormley, Program Officer, National Security Education Program, 1101 Wilson Boulevard, Suite 1210, Rosslyn P.O. Box 20010, Arlington, Virginia 22209-2248; (703) 696-1991. Electronic mail address: [Gormleyk@ndu.edu](mailto:Gormleyk@ndu.edu).

**SUPPLEMENTARY INFORMATION:** The National Security Education Board Group of Advisors meeting is open to the public. The public is afforded the opportunity to submit written statements associated with NSEP.

Dated: May 15, 2007.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, DoD.*

[FR Doc. 07-2502 Filed 5-18-07; 8:45 am]

**BILLING CODE** 5001-06-M

**DEPARTMENT OF DEFENSE****Department of Navy****Privacy Act of 1974; System of Records****AGENCY:** Department of the Navy, DoD.**ACTION:** Notice to delete two systems of records.

**SUMMARY:** The Department of the Navy is deleting two systems of records in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

**DATES:** This proposed action will be effective without further notice on June 20, 2007 unless comments are received which result in a contrary determination.

**ADDRESSES:** Send comments to the Department of the Navy, PA/FOIA Policy Branch, Chief of Naval Operations (DNS-36), 2000 Navy Pentagon, Washington, DC 20350-2000.

**FOR FURTHER INFORMATION CONTACT:** Mrs. Doris Lama at (202) 685-6545.

**SUPPLEMENTARY INFORMATION:** The Department of the Navy systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The Department of Navy proposes to delete two systems of records notice from its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The proposed deletion is not within the purview of

subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of new or altered systems reports.

Dated: May 15, 2007.

**C.R. Choate,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

**N01740-2**

**SYSTEM NAME:**

Federal Housing Administration Mortgage Insurance System (February 22, 1993, 58 FR 10721).

**REASON: PROGRAM WAS DISESTABLISHED.**

**N12300-1**

**SYSTEM NAME:**

Employee Assistance Program Case Record System (February 22, 1993, 58 FR 10819).

**REASON:**

Record system is no longer in use since OPM stopped their mandatory reporting requirement in the mid-1990s.

[FR Doc. E7-9675 Filed 5-18-07; 8:45 am]

**BILLING CODE 5001-06-P**

**DEFENSE NUCLEAR FACILITIES SAFETY BOARD****FOIA Fee Schedule Update**

**AGENCY:** Defense Nuclear Facilities Safety Board.

**ACTION:** Notice.

**SUMMARY:** The Defense Nuclear Facilities Safety Board is publishing its annual update to the Freedom of Information Act (FOIA) Fee Schedule pursuant to 10 CFR 1703.107(b)(6) of the Board's regulations.

**EFFECTIVE DATE:** May 10, 2007.

**FOR FURTHER INFORMATION CONTACT:**

Brian Grosner, General Manager, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW., Suite 700, Washington, DC 20004-2901, (202) 694-7060.

**SUPPLEMENTARY INFORMATION:** The FOIA requires each Federal agency covered by the Act to specify a schedule of fees applicable to processing of requests for agency records. 5 U.S.C. 552(a)(4)(A)(i). On March 15, 1991, the Board published for comment in the **Federal Register** its proposed FOIA Fee Schedule. 56 FR 11114. No comments were received in response to that notice, and the Board issued a final Fee Schedule on May 6, 1991.

Pursuant to 10 CFR 1703.107(b)(6) of the Board's regulations, the Board's General Manager will update the FOIA Fee Schedule once every 12 months. Previous Fee Schedule updates were published in the **Federal Register** and went into effect, most recently, on May 1, 2006, 71 FR 19718.

**Board Action**

Accordingly, the Board issues the following schedule of updated fees for services performed in response to FOIA requests:

**DEFENSE NUCLEAR FACILITIES SAFETY BOARD SCHEDULE OF FEES FOR FOIA SERVICES**

[Implementing 10 CFR 1703.107(b)(6)]

Search or Review Charge .....	\$72.00 per hour.
Copy Charge (paper) .....	\$0.08 per page, if done in-house, or generally available commercial rate (approximately \$.10 per page).
Electronic Media .....	\$5.00.
Copy Charge (audio cassette) .....	\$3.00 per cassette.
Duplication of DVD .....	\$25.00 for each individual DVD; \$16.50 for each additional individual DVD.
Copy Charge for large documents (e.g., maps, diagrams) .....	Actual commercial rates.

Dated: May 9, 2007.

**Debra H. Richardson,**

*Deputy General Manager.*

[FR Doc. E7-9665 Filed 5-18-07; 8:45 am]

**BILLING CODE 3670-01-P**

**DEPARTMENT OF EDUCATION****Notice of Proposed Information Collection Requests**

**AGENCY:** Department of Education.

**SUMMARY:** The IC Clearance Official, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

**DATES:** Interested persons are invited to submit comments on or before July 20, 2007.

**SUPPLEMENTARY INFORMATION:** Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested

Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice

containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: May 14, 2007.

**Angela C. Arrington,**

*IC Clearance Official, Regulatory Information Management Services, Office of Management.*

#### **National Institute for Literacy**

*Type of Review:* New.

*Title:* LINC Professional

*Development Mapping Survey.*

*Frequency:* One time.

*Affected Public:* State, Local, or Tribal Gov't, SEAs or LEAs.

*Reporting and Recordkeeping Hour Burden:*

*Responses:* 100.

*Burden Hours:* 63.

*Abstract:* The LINC Professional Development Mapping Survey will gather information about existing practices, approaches and delivery systems for the professional development of adult education practitioners and volunteers in the states. The LINC Professional Development Mapping process includes surveying state-level staff to gather information about what professional development opportunities are provided for practitioners; this information will be useful in order to improve the services of the Institute.

Requests for copies of the proposed information collection request may be accessed from <http://edicsweb.ed.gov>, by selecting the "Browse Pending Collections" link and by clicking on link number 3344. When you access the information collection, click on "Download Attachments" to view.

Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202-4700. Requests may also be electronically mailed to [ICDocketMgr@ed.gov](mailto:ICDocketMgr@ed.gov) or faxed to 202-245-6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to [ICDocketMgr@ed.gov](mailto:ICDocketMgr@ed.gov). Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

[FR Doc. E7-9655 Filed 5-18-07; 8:45 am]

**BILLING CODE 4000-01-P**

#### **DEPARTMENT OF EDUCATION**

##### **Office of Special Education and Rehabilitative Services; List of Correspondence**

**AGENCY:** Department of Education.

**ACTION:** List of Correspondence from July 1, 2006 through September 30, 2006.

**SUMMARY:** The Secretary is publishing the following list pursuant to section 607(f) of the Individuals with Disabilities Education Act, as amended by the Individuals with Disabilities Education Improvement Act of 2004 (IDEA). Under section 607(f) of IDEA, the Secretary is required, on a quarterly basis, to publish in the **Federal Register** a list of correspondence from the U.S. Department of Education (Department) received by individuals during the previous quarter that describes the interpretations of the Department of IDEA or the regulations that implement IDEA.

**FOR FURTHER INFORMATION CONTACT:** Melisande Lee or JoLeta Reynolds. Telephone: (202) 245-7468.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1-800-877-8339.

Individuals with disabilities may obtain a copy of this notice in an alternative format (e.g., Braille, large print, audiotope, or computer diskette) on request to the contact persons listed under **FOR FURTHER INFORMATION CONTACT**.

**SUPPLEMENTARY INFORMATION:** The following list identifies correspondence from the Department issued from July 1, 2006 through September 30, 2006. Included on the list are those letters that

contain interpretations of the requirements of IDEA and its implementing regulations, as well as letters and other documents that the Department believes will assist the public in understanding the requirements of the law and its regulations. The date of and topic addressed by a letter are identified, and summary information is also provided, as appropriate. To protect the privacy interests of the individual or individuals involved, personally identifiable information has been deleted, as appropriate.

#### **Part A—General Provisions**

##### *Section 602—Definitions*

Topic Addressed: Child With a Disability

○ Letter dated July 11, 2006 to individuals (personally identifiable information redacted), regarding whether a State must use the term "mental retardation" or any other terms contained in the definition of "child with a disability" from Part B of IDEA when describing children eligible for services under IDEA and State law.

Topic Addressed: Special Education and Related Services

○ Letter dated September 19, 2006 to U.S. Senator Judd Gregg, regarding the maintenance and programming of surgically implanted medical devices, including cochlear implants.

#### **Part B—Assistance for Education of All Children with Disabilities**

##### *Section 612—State Eligibility*

Topic Addressed: Maintenance of Effort

○ Letter dated July 26, 2006 to Maryland State Department of Education Assistant Superintendent Carol Ann Baglin, regarding the maintenance of effort requirements in Part B of IDEA that apply to local educational agencies (LEAs) and a State educational agency's responsibilities to ensure that its LEAs comply with these requirements. **OTHER LETTERS NOT DIRECTLY RELATED TO IDEA OR THE IDEA REGULATIONS BUT THAT MAY BE OF INTEREST TO THE PUBLIC**

Topic Addressed: Highly Qualified Teachers

○ Letter dated September 5, 2006 to Chief State School Officers, regarding efforts to ensure that all core academic subjects are taught by highly qualified and effective teachers and asking States to restrict the use of High Objective Uniform State Standard of Evaluation (HOUSSE) procedures to certain situations.

**Topic Addressed: Confidentiality of Education Records**

○ Letter dated February 2, 2006 to Pennsylvania Department of Education Assistant Counsel Karen S. Feuchtenberger, from Family Policy Compliance Office Director LeRoy S. Rooker, regarding whether, under the Family Educational Rights and Privacy Act, a charter school may disclose certain personally identifiable information from the education records of a child with a disability, in the absence of parent consent, to the child's school district of residence in order to obtain an additional State subsidy for children with disabilities receiving special education and related services at the charter school.

**Electronic Access to This Document**

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: <http://www.ed.gov/news/fedregister/index.html>.

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1-888-293-6498; or in the Washington, DC, area at (202) 512-1530.

**Note:** The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: <http://www.gpoaccess.gov/nara/index.html>.

(Catalog of Federal Domestic Assistance Number 84.027, Assistance to States for Education of Children with Disabilities)

Dated: May 15, 2007.

**John H. Hager,**

*Assistant Secretary for Special Education and Rehabilitative Services.*

[FR Doc. E7-9749 Filed 5-18-07; 8:45 am]

**BILLING CODE 4000-01-P**

**DEPARTMENT OF EDUCATION**

**Office of Special Education and Rehabilitative Services; List of Correspondence**

**AGENCY:** Department of Education.

**ACTION:** List of Correspondence from October 1, 2006 through December 31, 2006.

**SUMMARY:** The Secretary is publishing the following list pursuant to section 607(f) of the Individuals with Disabilities Education Act, as amended by the Individuals with Disabilities

Education Improvement Act of 2004 (IDEA). Under section 607(f) of IDEA, the Secretary is required, on a quarterly basis, to publish in the **Federal Register** a list of correspondence from the U.S. Department of Education (Department) received by individuals during the previous quarter that describes the interpretations of the Department of IDEA or the regulations that implement IDEA.

**FOR FURTHER INFORMATION CONTACT:** Melisande Lee or JoLeta Reynolds. Telephone: (202) 245-7468.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1-800-877-8339.

Individuals with disabilities may obtain a copy of this notice in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact persons listed under **FOR FURTHER INFORMATION CONTACT**.

**SUPPLEMENTARY INFORMATION:** The following list identifies correspondence from the Department issued from October 1, 2006 through December 31, 2006. Included on the list are those letters that contain interpretations of the requirements of IDEA and its implementing regulations, as well as letters and other documents that the Department believes will assist the public in understanding the requirements of the law and its regulations. The date of and topic addressed by a letter are identified, and summary information is also provided, as appropriate. To protect the privacy interests of the individual or individuals involved, personally identifiable information has been deleted, as appropriate.

**Part B—Assistance for Education of All Children With Disabilities**

**Section 611—Authorization; Allotment; Use of Funds; Authorization of Appropriations**

**Topic Addressed: Allotment**

○ Letter dated November 20, 2006 to Washington, DC attorney Leigh Manasevit, regarding the reallocation of high cost funds that were not expended before the last year of availability.

**Section 612—State Eligibility**

**Topic Addressed: Free Appropriate Public Education**

○ Letter dated December 22, 2006 to National Association of Public Health Systems Executive Director Mark Covall, regarding the obligation to ensure that a free appropriate public education is available to children with

disabilities who are placed by a non-educational public agency in a public or private residential program and clarifying that determining the specific school district or local educational agency responsible for the cost of that residential placement is a matter of State law, policy or practice.

**Topic Addressed: Confidentiality of Education Records.**

○ Letter dated October 13, 2006 to Texas Education Agency General Counsel David A. Anderson, regarding confidentiality issues raised by IDEA and the Family Educational Rights and Privacy Act related to the public dissemination of special education due process hearing decisions.

**Topic Addressed: Children With Disabilities Enrolled by Their Parents in Private Schools.**

○ Letter dated December 1, 2006 to U.S. Representative Christopher Smith, regarding the applicability of equitable participation requirements to children with disabilities ages three through five enrolled by their parents in private schools or facilities.

**Section 614—Evaluations, Eligibility Determinations, Individualized Education Programs, and Educational Placements**

**Topic Addressed: Evaluations and Reevaluations**

○ Letter dated October 19, 2006 to National Association of School Psychologists Executive Director Susan Gorin, regarding the role of school psychologists in administering assessments and the regulatory changes in procedures for evaluating children suspected of having learning disabilities

**Topic Addressed: Individualized Education Programs**

○ Letter dated October 19, 2006 to TASH Executive Director Barbara Trader, clarifying that the IDEA, while requiring the individualized education program team (IEP Team) to consider the use of positive behavioral interventions and supports, does not include a prohibition on the use of aversive behavioral interventions and that the decision whether to allow IEP Teams to consider the use of such interventions is a decision left to each State.

**Topic Addressed: Educational Placements**

○ Letter dated November 3, 2006 to Iowa Bureau of Children, Family, and Community Services Chief Lana Michelson, regarding the educational placement of students, including

students with disabilities, who are required to register as sex offenders under State law.

#### *Electronic Access to This Document*

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: <http://www.ed.gov/news/fedregister/index.html>.

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1-888-293-6498; or in the Washington, DC, area at (202) 512-1530.

**Note:** The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: <http://www.gpoaccess.gov/nara/index.html>.

(Catalog of Federal Domestic Assistance Number 84.027, Assistance to States for Education of Children with Disabilities)

Dated: May 15, 2007.

**John H. Hager,**

*Assistant Secretary for Special Education and Rehabilitative Services.*

[FR Doc. E7-9750 Filed 5-18-07; 8:45 am]

BILLING CODE 4000-01-P

## DEPARTMENT OF ENERGY

### **Federal Energy Regulatory Commission**

[Docket Nos. EL07-1-000]

#### **California Independent System Operator Corporation; Notice of Filing**

May 10, 2007.

Take notice that on April 16, 2007 the California Independent System Operator Corporation filed a compliance filing, pursuant to Rules 213 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission, 18 CFR 385.213 and the Commission's Order issued October 25, 2006.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or

protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

*Comment Date:* 5 p.m. Eastern Time on May 31, 2007.

**Kimberly D. Bose,**  
*Secretary.*

[FR Doc. E7-9681 Filed 5-18-07; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### **Federal Energy Regulatory Commission**

[Docket No. RP07-445-000]

#### **El Paso Natural Gas Company; Notice of Petition for Declaratory Order**

May 11, 2007.

Take notice that on May 8, 2007, El Paso Natural Gas Company (El Paso) filed a petition for declaratory order pursuant to Rule 207 of the Commission's Rules and Regulations (18 CFR 385.207), declaring that El Paso's tariff does not permit prior period adjustments for measurement and invoicing errors occurring more than six months prior to the date that UNS Gas Inc. (UNS) disputed transportation invoices, and finding specifically that any erroneous invoices were not the result of a mutual mistake of fact.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the

appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

*Intervention and Protest Date:* 5 p.m. Eastern Time, May 30, 2007.

**Kimberly D. Bose,**  
*Secretary.*

[FR Doc. E7-9680 Filed 5-18-07; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### **Federal Energy Regulatory Commission**

[Docket Nos. ER07-649-000]

#### **El Segundo Power II LLC; Notice of Issuance of Order**

May 15, 2007.

El Segundo Power II LLC (El Segundo) filed an application for market-based rate authority, with an accompanying rate schedule. The proposed market-based rate schedule provides for the sale of energy, capacity and ancillary services at market-based rates. El Segundo also requested waivers of various Commission regulations. In particular, El Segundo requested that the Commission grant blanket approval

under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by El Segundo.

On May 11, 2007, pursuant to delegated authority, the Director, Division of Tariffs and Market Development—West, granted the requests for blanket approval under Part 34 (Director's Order). The Director's Order also stated that the Commission would publish a separate notice in the **Federal Register** establishing a period of time for the filing of protests. Accordingly, any person desiring to be heard concerning the blanket approvals of issuances of securities or assumptions of liability by El Segundo should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2004).

Notice is hereby given that the deadline for filing protests is June 11, 2007.

Absent a request to be heard in opposition to such blanket approvals by the deadline above, El Segundo is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of El Segundo, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approvals of El Segundo's issuance of securities or assumptions of liability.

Copies of the full text of the Director's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at <http://www.ferc.gov>, using the eLibrary link. Enter the docket number excluding

the last three digits in the docket number filed to access the document. Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. The Commission strongly encourages electronic filings.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. E7-9677 Filed 5-18-07; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Notice of Effectiveness of Exempt Wholesale Generator or Foreign Utility Company Status

May 11, 2007.

	Docket Nos.
North Wind Cooperative .....	EG07-36-000
Besicorp-Empire Power Company, LLC .....	EG07-37-000
Post Oak Wind, LLC .....	EG07-38-000
Bullard Energy Center, LLC .....	EG07-39-000
Diablo Winds, LLC .....	EG07-40-000
Panoche Energy Center, LLC .....	FC07-7-000
Spectra Energy Corporation & Union Gas Limited .....	FC07-8-000
AES TEG/TEP Holding B.V .....	FC07-9-000
Airtricity Holdings Ltd. ....	FC07-10-000
Generadora Montecristo S.A., Enel Guatemala S.A .....	FC07-11-000

Take notice that during the month of April 2007, the status of the above-captioned entities as Exempt Wholesale Generators or Foreign Utility Companies became effective by operation of the Commission's regulations. 18 CFR 366.7(a).

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. E7-9684 Filed 5-18-07; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 12767-001]

#### Rainier Engineering and Environmental, LLC; Notice Rejecting Filing

May 11, 2007.

On March 20, 2007, Commission staff rejected the application, filed November 13, 2006, by Rainier Engineering and

Environmental, LLC (Rainier) for a preliminary permit under section 4(f) of the Federal Power Act<sup>1</sup> to study the proposed Tapps Lake Dam Hydroelectric Project No. 12767, to be located at Puget Sound Energy, Inc.'s Lake Tapps Dam on the White River in Sumner, Pierce County, Washington. The application was rejected for failure to include a readable map showing a project boundary enclosing all proposed project facilities.<sup>2</sup> On April 19, 2007, Rainier requested rehearing of the Commission's decision to reject their application.

Rainier does not attribute any errors to staff's rejection of its application, but instead proffers assertedly appropriate

maps to cure its application's deficiency and requests reconsideration of its application in light of its new submission.

Section 313(a) of the Federal Power Act, 16 U.S.C. 825l, requires an aggrieved party to file its request for rehearing within 30 days after the issuance of the Commission order and to set forth specifically the ground or grounds upon which such request is based. Rainier's rehearing request raises no specific allegations of error with respect to the staff's order. Therefore, it must be rejected.<sup>3</sup>

<sup>3</sup> In addition, the pleading as filed is deficient because it failed to include a Statement of Issues, as required by Revision of Rules of Practice and Procedure Regarding Issue Identification, Order No. 663, 70 FR 55,723 (September 23, 2005), FERC Statutes and Regulations ¶ 31,193 (2005) as amended by Order 663-A, effective March 23, 2006, to limit its applicability to rehearing requests. Revision of Rules of Practice and Procedure Regarding Issue Identification, Order No. 663-A, 71 FR 14,640 (March 23, 2006), FERC Statutes and Regulations ¶ 31,211 (2006) (codified at 18 CFR 385.203(a)(7) and 385.713(c)(2) (2006)).

<sup>1</sup> 16 U.S.C. 797(f) (2000).

<sup>2</sup> See 18 CFR 4.81(d) (2006). By letter issued January 18, 2007, Commission staff notified Rainier of the deficiency in its application and gave Rainier 45 days to file an appropriate map to cure the deficiency. Rainier timely filed additional maps on February 28, 2007. However, Commission staff's March 20, 2007 letter found that the newly-submitted maps also failed to meet the requirements of section 4.81(d).



In any event, the submission of additional factual evidence in a request for rehearing is contrary to Commission policy,<sup>4</sup> so Rainier's newly-submitted maps would not have been accepted to reverse staff's rejection of the application.<sup>5</sup>

It appears moreover that Rainier late filed<sup>6</sup> its permit application<sup>7</sup> in competition with the preliminary permit application filed by Don L. Hansen in Project No. 12685.

This notice constitutes final agency action. Request for rehearing this rejection notice must be filed within 30 days of the date of issuance of this notice, pursuant to 18 CFR 385.713 (2006).

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. E7-9682 Filed 5-18-07; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. CP07-208-000]

#### Rockies Express Pipeline LLC; Notice of Application

May 14, 2007.

Take notice that on April 30, 2007, Rockies Express Pipeline LLC (Rockies Express), 370 Van Gordon Street, Lakewood, Colorado 80228, filed an application in Docket No. CP07-208-000, pursuant to section 7(c) of the

Natural Gas Act (NGA) and Part 157 of the Commission's regulations requesting a certificate of public convenience and necessity to construct certain pipeline facilities, referred to as the REX-East Project, to extend Rockies Express' certificated system eastward from its terminus in Audrain County, Missouri to Monroe County, Ohio and to increase the transportation capacity of its system from 1,500,000 Dth per day to 1,800,000 Dth per day, all as more fully set forth in the application which is on file with the Commission and open for public inspection. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or toll free at (866)208-3676, or for TTY, contact (202) 502-8659.

Specifically, Rockies Express requests authorization to construct: (1) 638 miles of 42-inch pipeline in Audrain, Ralls, and Pike Counties, Missouri; Pike, Scott, Morgan, Sangamon, Christian, Macon, Moultrie, Douglas and Edgar Counties, Illinois; Vermillion, Parke, Putnam, Hendricks, Morgan, Johnson, Shelby, Decatur, and Franklin Counties, Indiana; and Butler, Warren, Clinton, Greene, Fayette, Pickaway, Fairfield, Perry, Morgan, Muskingum, Guernsey, Noble, Belmont, and Monroe Counties, Ohio; and (2) a total of approximately 236,000 horsepower of compression at seven new compressor stations in Carbon County, Wyoming; Phelps County, Nebraska; Audrain County, Missouri; Christian County, Illinois; Putnam County, Indiana; Butler County, Ohio; and Muskingum County, Ohio.

The cost of the project is approximately \$2.2 billion. Rockies Express proposes to establish a new rate zone—Zone 3—consisting of all facilities located east of the terminus of Rockies Express' certificated facilities in Audrain County, Missouri. Further, Rockies Express requests a determination of rolled-in rate treatment for certain compression facilities located in existing Zone 1 and Zone 2.

Any questions regarding this application should be directed to Robert F. Harrington, Vice President—Regulatory, Rockies Express Pipeline LLC, P.O. Box 281304, Lakewood, Colorado 80228-8304, phone (303)763-3581.

On June 13, 2006, the Commission staff granted Rockies Express' request to utilize the Commission's Pre-Filing

Process and assigned Docket No. PF06-30-000 to staff activities involving the Rockies Express REX-East Project. Now, as of the filing of Rockies Express' application on April 30, 2007, the Pre-Filing Process for this project has ended. From this time forward, Rockies Express' proceeding will be conducted in Docket No. CP07-208-000, as noted in the caption of this Notice.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding, or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify Federal and State agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all Federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's

<sup>4</sup> See, e.g., Northeast Hydrodevelopment Corporation, 42 FERC ¶ 61,066 n. 6 (1988) (the Commission does not consider information an applicant submits on rehearing of staff's dismissal of the application, since the issue before the Commission is whether the staff's dismissal was appropriate). See also, e.g., Koch Gateway Pipeline Company, 75 FERC ¶ 61,132 at 61,456 (1996) (explaining general policy against receipt of additional information on rehearing).

<sup>5</sup> Furthermore, the new maps did not cure the deficiencies in Rainier's permit application in that they do not include a project boundary that encloses all project features, including the reservoir, and they do not delineate all project features, including the project's dam, intake structure, and transmission line, as section 4.81(d) of the Commission's regulations requires.

<sup>6</sup> The August 10, 2006 notice of Mr. Hanson's application required the filing of competing permit applications by 30 days following October 10, 2006, i.e., by Thursday, November 9, 2006. Rainier filed its competing application after business hours on November 9, 2006. Under 18 CFR 385.2001(c)(2) (2006), any document received after regular business hours is considered filed on the next business day. Since Friday, November 10, 2006, was a holiday, the next business day was Monday, November 13, 2006.

<sup>7</sup> Finally, Rainier filed its application electronically, which is prohibited by 18 CFR 385.2003(c)(1)(i) (2006), since preliminary permit applications are not included among the documents that are qualified for electronic filing.

rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

*Comment Date:* June 4, 2007.

**Philis J. Posey,**

*Deputy Secretary.*

[FR Doc. E7-9663 Filed 5-18-07; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Combined Notice of Filings #1

May 15, 2007.

Take notice that the Commission received the following electric corporate filings:

*Docket Numbers:* EC07-88-000.

*Applicants:* Entergy Gulf States, Inc., Entergy Gulf States Louisiana, L.L.C., Entergy Texas, Inc.

*Description:* Application of Entergy Gulf States, Inc, Entergy Gulf States Louisiana, LLC, & Entergy Texas, Inc for authorization to transfer wholesale tariffs & rate schedules.

*Filed Date:* 05/11/2007.

*Accession Number:* 20070514-0092.

*Comment Date:* 5 p.m. Eastern Time on Friday, June 01, 2007.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER04-925-016.

*Applicants:* Merrill Lynch Commodities, Inc.

*Description:* Merrill Lynch Commodities, Inc informs FERC of a non-material change in characteristics in granting MLCI market-based rate authorization.

*Filed Date:* 04/30/2007.

*Accession Number:* 20070507-0207.

*Comment Date:* 5 p.m. Eastern Time on Monday, May 21, 2007.

*Docket Numbers:* ER07-520-003.

*Applicants:* Midwest Independent Transmission System operator, Inc.

*Description:* Midwest ISO submits a complete clean version and the redlined coversheet of their Amended Interconnection Agreement with City of Lebanon, Ohio.

*Filed Date:* 05/10/2007.

*Accession Number:* 20070511-0356.

*Comment Date:* 5 p.m. Eastern Time on Thursday, May 31, 2007.

*Docket Numbers:* ER07-634-001.

*Applicants:* American Electric Power Service Corporation.

*Description:* AEP Eastern Operating Companies submit an executed copy of the Third Amended Agreement in compliance with the Commission's 4/25/07 letter order.

*Filed Date:* 05/09/2007.

*Accession Number:* 20070511-0358.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, May 30, 2007.

*Docket Numbers:* ER07-864-000.

*Applicants:* Westar Energy, Inc.

*Description:* Westar Energy, Inc submits First Revised Sheet 172 *et al.* to their Open Access Transmission Tariff.

*Filed Date:* 05/04/2007.

*Accession Number:* 20070508-0282.

*Comment Date:* 5 p.m. Eastern Time on Friday, May 25, 2007.

*Docket Numbers:* ER07-870-000.

*Applicants:* Oncor Electric Delivery Company.

*Description:* Oncor Electric Delivery Company submits Notice of Succession to change its name from TXU Electric Delivery Co under FERC Electric Tariff, Ninth Revised Volume No. 1.

*Filed Date:* 05/08/2007.

*Accession Number:* 20070510-0175.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, May 29, 2007.

*Docket Numbers:* ER07-871-000.

*Applicants:* Cleco Power LLC.

*Description:* Cleco Power LLC submits a revised Service Agreement for Network Integration Transmission Service with Louisiana Generating LLC.

*Filed Date:* 05/08/2007.

*Accession Number:* 20070511-0126.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, May 29, 2007.

*Docket Numbers:* ER07-872-000.

*Applicants:* Southern California Edison Company.

*Description:* Southern California Edison submits First Revised Sheet No. 2 *et al* to FERC Electric Tariff, First Revised Volume No. 5 to be effective 7/8/07.

*Filed Date:* 05/09/2007.

*Accession Number:* 20070511-0127.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, May 30, 2007.

*Docket Numbers:* ER07-873-000.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* PJM Interconnection, LLC submits Eighth Revised Sheet No. 24 *et al* to FERC Electric Tariff, Sixth Revised Volume No. 1, effective 7/1/07.

*Filed Date:* 05/09/2007.

*Accession Number:* 20070511-0128.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, May 30, 2007.

*Docket Numbers:* ER07-874-000.

*Applicants:* Rainbow Energy Ventures LLC.

*Description:* Rainbow Energy Ventures LLC requests that FERC accept its proposed FERC Electric Tariff, Original Volume No. 1 *etc.*

*Filed Date:* 05/09/2007.

*Accession Number:* 20070511-0129.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, May 30, 2007.

*Docket Numbers:* ER07-875-000.

*Applicants:* Peetz Table Wind Energy, LLC.

*Description:* Peetz Table Wind Energy, LLC's request for authorization to sell energy and capacity at market-based rates, and waiver of the 60-day notice requirement.

*Filed Date:* 05/09/2007.

*Accession Number:* 20070511-0362.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, May 30, 2007.

*Docket Numbers:* ER07-876-000.

*Applicants:* Chevron Coalina Energy Company.

*Description:* Texaco Natural Gas, Inc notifies FERC that Chevron Coalina Energy Co is the successor to their electric power marketing function.

*Filed Date:* 05/09/2007.

*Accession Number:* 20070511-0359.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, May 30, 2007.

*Docket Numbers:* ER07-877-000.

*Applicants:* WSPP Inc.

*Description:* WSPP, Inc requests the Commission to amend the WSPP Agreement to include Grays Harbor Energy, LLC *et al.* as members and submits revisions to reflect the name change and transfer of interest in the WSPP Agreement.

*Filed Date:* 05/09/2007.

*Accession Number:* 20070511-0360.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, May 30, 2007.

*Docket Numbers:* ER07-878-000.

*Applicants:* Atlantic City Electric Company.

*Description:* Atlantic City Company submits an executed interconnection agreement between itself and the City of Vineland, New Jersey.

*Filed Date:* 05/10/2007.

*Accession Number:* 20070511-0364.

*Comment Date:* 5 p.m. Eastern Time on Thursday, May 31, 2007.

*Docket Numbers:* ER07-879-000.

*Applicants:* Louisville Gas and Electric Company, Kentucky Utilities Company.

*Description:* Louisville Gas and Electric Co *et al.* submits a service agreement under the LG&E/KU Tariff for Cost-Based Sales of Capacity and Energy with Indiana Municipal Power Agency etc.

*Filed Date:* 05/10/2007.

*Accession Number:* 20070511-0357.

*Comment Date:* 5 p.m. Eastern Time on Thursday, May 31, 2007.

*Docket Numbers:* ER07-880-000.

*Applicants:* Deseret Generation & Transmission Co-op.

*Description:* Deseret Generation & Transmission Co-operative, Inc submits the six agreements related to transmission and delivery service to PacifiCorp under its Open Access Transmission Tariff.

*Filed Date:* 05/10/2007.

*Accession Number:* 20070511-0363.

*Comment Date:* 5 p.m. Eastern Time on Thursday, May 31, 2007.

*Docket Numbers:* ER07-881-000.

*Applicants:* Alliant Energy Corporate Services, Inc.

*Description:* Alliant Energy Corporate Services, Inc on behalf of Interstate Power & Light Co *et al.* submits revised tariff sheets relating to its system coordination and operating agreement.

*Filed Date:* 05/10/2007.

*Accession Number:* 20070514-0103.

*Comment Date:* 5 p.m. Eastern Time on Thursday, May 31, 2007.

*Docket Numbers:* ER07-882-000.

*Applicants:* PacifiCorp.

*Description:* PacifiCorp submits notice of termination of agreement for use of transmission capacity among Pacific Power & Light Co *et al.*

*Filed Date:* 05/10/2007.

*Accession Number:* 20070514-0101.

*Comment Date:* 5 p.m. Eastern Time on Thursday, May 31, 2007.

*Docket Numbers:* ER07-883-000.

*Applicants:* Southwest Power Pool, Inc.

*Description:* Southwest Power Pool, Inc submits an executed Network Integration Transmission Service Agreement with Kansas City Power and Light Co.

*Filed Date:* 05/11/2007.

*Accession Number:* 20070514-0095.

*Comment Date:* 5 p.m. Eastern Time on Friday, June 01, 2007.

*Docket Numbers:* ER07-884-000.

*Applicants:* Entergy Gulf States, Inc.

*Description:* Entergy Gulf States, Inc submits Notices of Cancellation of Rate Schedule FERC 114 *et al.*

*Filed Date:* 05/11/2007.

*Accession Number:* 20070514-0096.

*Comment Date:* 5 p.m. Eastern Time on Friday, June 01, 2007.

*Docket Numbers:* ER07-885-000.

*Applicants:* Midwest Independent Transmission System.

*Description:* Midwest ISO submits its proposed revisions to its Open Access Transmission and Energy Markets.

*Filed Date:* 05/11/2007.

*Accession Number:* 20070514-0097.

*Comment Date:* 5 p.m. Eastern Time on Friday, June 01, 2007.

*Docket Numbers:* ER07-886-000.

*Applicants:* Southwest Power Pool, Inc.

*Description:* Southwest Power Pool, Inc submits an executed Network Integration Transmission Service Agreement with Kansas Electric Power Cooperative, Inc.

*Filed Date:* 05/11/2007.

*Accession Number:* 20070514-0100.

*Comment Date:* 5 p.m. Eastern Time on Friday, June 01, 2007.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211

and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. E7-9679 Filed 5-18-07; 8:45 am]

**BILLING CODE 6717-01-P**

**DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission****Combined Notice of Filings # 1**

May 11, 2007.

Take notice that the Commission received the following electric corporate filings:

*Docket Numbers:* EC07-86-000.

*Applicants:* PurEnergy Caledonia, LLC; Caledonia Generating, LLC.

*Description:* PurEnergy Caledonia, LLC and Caledonia Generating, LLC submits an Application for Authorization under section 203 of the FPA.

*Filed Date:* 05/04/2007.

*Accession Number:* 20070510-0166.

*Comment Date:* 5 p.m. Eastern Time on Friday, May 25, 2007.

*Docket Numbers:* EC07-87-000.

*Applicants:* Oncor Electric Delivery Company; TXU Portfolio Management Company LP; Texas Energy Future Holdings Limited Partnership.

*Description:* Oncor Electric Delivery Company, *et al.* submit a joint application for authorization under section 203 of the FPA for Disposition of Jurisdictional Facilities and request for blanket authorization.

*Filed Date:* 05/04/2007.

*Accession Number:* 20070510-0168.

*Comment Date:* 5 p.m. Eastern Time on Monday, June 18, 2007.

Take notice that the Commission received the following exempt wholesale generator filings:

*Docket Numbers:* EG07-49-000.

*Applicants:* Sweetwater Wind 4 LLC.

*Description:* Sweetwater Wind 4 LLC submits notice of self-certification of its status as an exempt wholesale generator.

*Filed Date:* 05/02/2007.

*Accession Number:* 20070507-0208.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, May 23, 2007.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER95-1528-016; ER96-1088-043; ER01-2659-010; ER02-2199-008; ER03-54-008; ER07-585-002; ER03-56-008; ER96-1858-021; ER03-674-010; ER99-1936-009; ER01-1114-009; ER97-2758-016; ER05-89-009.

*Applicants:* Wisconsin Public Service Corporation; WPS Power Development, LLC and WPS Energy Services, Inc.; Combined Locks Energy Center, LLC; WPS Empire State, Inc.; WPS Beaver Falls Generation, LLC; Niagara Generation, LLC; WPS Syracuse Generation, LLC; Mid-American Power,

LLC; Quest Energy, LLC; WPS Canada Generation, Inc. and WPS New England Generation, Inc.; WPS Westwood Generation, LLC; Advantage Energy, Inc.; Upper Peninsula Power Company.

*Description:* Integrys Energy Group, Inc submits Notice of Change in Status as set forth in the Commission's Order 652.

*Filed Date:* 04/30/2007.

*Accession Number:* 20070509-0108.

*Comment Date:* 5 p.m. Eastern Time on Monday, May 21, 2007.

*Docket Numbers:* ER01-570-007; ER98-4421-007; ER96-2350-027; ER99-791-005; ER99-806-004; ER99-3677-006.

*Applicants:* Consumers Energy Company; CMS Energy Resource Management Company; Grayling Generation Station Limited Partnership; Genesee Power Station Limited Partnership; CMS Generation Michigan Power L.L.C. Dearborn Industrial Generation, LLC.

*Description:* Consumers Energy Company submits a Notice of Change in Status.

*Filed Date:* 05/09/2007.

*Accession Number:* 20070509-5061.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, May 30, 2007.

*Docket Numbers:* ER04-381-001.

*Applicants:* DC Energy, LLC.

*Description:* DC Energy, LLC submits a triennial Updated Market Analysis of DC Energy, LLC.

*Filed Date:* 05/09/2007.

*Accession Number:* 20070509-5082.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, May 30, 2007.

*Docket Numbers:* ER06-185-003.

*Applicants:* New York Independent System Operator, Inc.

*Description:* Letter informing Commission that the NYISO has publicly posted RTGP mitigation related bid data.

*Filed Date:* 05/09/2007.

*Accession Number:* 20070509-5043.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, May 30, 2007.

*Docket Numbers:* ER07-525-001.

*Applicants:* Entergy Services, Inc.

*Description:* Entergy Operating Companies submits their supplemental filing in which Entergy explains why Entergy and American Electric Power Service Corp. have agreed to the limitation of rollover rights etc.

*Filed Date:* 05/02/2007.

*Accession Number:* 20070509-0107.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, May 23, 2007.

*Docket Numbers:* ER07-541-001.

*Applicants:* Entergy Services, Inc.

*Description:* Entergy Operating Companies submits their supplemental

filing in which Entergy explains why Entergy and NRG Power Marketing have agreed to the limitation of rollover rights etc.

*Filed Date:* 05/02/2007.

*Accession Number:* 20070509-0106.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, May 23, 2007.

*Docket Numbers:* ER07-549-001; EC06-126-003.

*Applicants:* NSTAR Electric Company.

*Description:* Response of NSTAR Electric Company to FERC Staff's April 10, 2007 Deficiency Letter.

*Filed Date:* 05/10/2007.

*Accession Number:* 20070510-5052.

*Comment Date:* 5 p.m. Eastern Time on Thursday, May 31, 2007.

*Docket Numbers:* ER07-834-001.

*Applicants:* New York Independent System Operator, Inc.

*Description:* New York Independent System Operator, Inc submits a revision to its 5/1/07 filing.

*Filed Date:* 05/07/2007.

*Accession Number:* 20070510-0156.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, May 29, 2007.

*Docket Numbers:* ER07-862-000.

*Applicants:* New York Independent System Operator, Inc.

*Description:* New York Independent System Operator, Inc submits proposed revisions to its Market Administration & Control Areas Services Tariff to clarify & modify provisions governing its activation of its SCR program.

*Filed Date:* 05/04/2007.

*Accession Number:* 20070508-0284.

*Comment Date:* 5 p.m. Eastern Time on Friday, May 25, 2007.

*Docket Numbers:* ER07-863-000.

*Applicants:* Vermont Electric Cooperative, Inc.

*Description:* Vermont Electric Cooperative, Inc submits its 2007 transmission formula rate update to its charges produced by the formula rates applicable to the VEC-specific Local Service Schedules etc.

*Filed Date:* 05/04/2007.

*Accession Number:* 20070508-0283.

*Comment Date:* 5 p.m. Eastern Time on Friday, May 25, 2007.

*Docket Numbers:* ER07-865-000.

*Applicants:* Until Power Corp.

*Description:* Until Power Corp submits the a Statement of Billing Transactions under the Amended Until System Agreement for period of 1/1/06-12/31/06.

*Filed Date:* 05/01/2007.

*Accession Number:* 20070508-0281.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, May 22, 2007.

*Docket Numbers:* ER07-866-000.

*Applicants:* TransCanada Energy Ltd.  
*Description:* TransCanada Energy Ltd submits Notice of Cancellation of its market-based rate tariff, FERC Electric Rate Schedule 1.

*Filed Date:* 05/02/2007.

*Accession Number:* 20070508-0285.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, May 23, 2007.

*Docket Numbers:* ER07-867-000.

*Applicants:* California Independent System Operator Corporation.

*Description:* California Independent System Operator Corporation submits informational filing pursuant to Article IX, section B of the Stipulation and Agreement approved by FERC on 5/28/99.

*Filed Date:* 05/07/2007.

*Accession Number:* 20070510-0164.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, May 29, 2007.

*Docket Numbers:* ER07-868-000.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* PJM Interconnection, L.L.C. submits revisions to the PJM Operating Agreement, FERC Electric Tariff, Third Revised Rate Schedule 24, Sixth Revised Volume 1 pursuant to section 205 of the FPA etc.

*Filed Date:* 05/07/2007.

*Accession Number:* 20070510-0157.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, May 29, 2007.

*Docket Numbers:* ER07-869-000.

*Applicants:* California Independent System Operator Corporation.

*Description:* California Independent System Operator Corporation submits proposed tariff amendments to implement the initial Congestion Revenue Right allocation and auction processes under its Market Redesign *et al.*

*Filed Date:* 05/07/2007.

*Accession Number:* 20070510-0151.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, May 29, 2007.

Take notice that the Commission received the following electric securities filings:

*Docket Numbers:* ES07-26-001.

*Applicants:* Entergy Services, Inc.

*Description:* Production of Document of Entergy Services, Inc.

*Filed Date:* 05/09/2007.

*Accession Number:* 20070509-5081.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, May 30, 2007.

Take notice that the Commission received the following electric reliability filings:

*Docket Numbers:* RR07-12-000.

*Applicants:* North American Electric Reliability Corporation.

*Description:* Request of the North American Electric Reliability Corp for

approval of supplemental violation risk factors for certain requirements in Version 1 reliability standards etc approved by the Commission in Order.

*Filed Date:* 05/04/2007.

*Accession Number:* 20070510-0160.

*Comment Date:* 5 p.m. Eastern Time on Thursday, May 24, 2007.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call

(866) 208-3676 (toll free). For TTY, call (202) 502-8659.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. E7-9686 Filed 5-18-07; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket Nos. CP07-74-000; CP07-75-000]

#### Sonora Pipeline, LLC; Notice of Availability of the Environmental Assessment for the Proposed Burgos Hub Export/Import Project

May 15, 2007.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) on the natural gas pipeline facilities proposed by Sonora Pipeline, LLC (Sonora) in the above-referenced dockets.

The EA was prepared to satisfy the requirements of the National Environmental Policy Act. The FERC staff concludes that approval of the proposed project, with appropriate mitigating measures, would not constitute a major Federal action significantly affecting the quality of the human environment.

The EA assesses the potential environmental effects of the construction and operation of Sonora's proposed Burgos Hub Export/Import Project (Project). The Project would involve construction of approximately 29 miles of 30-inch-diameter natural gas pipeline and appurtenant facilities in Hidalgo County, Texas. Two bidirectional border crossing facilities also proposed for construction (for which a Presidential Permit has been requested under Docket No. CP07-75-000) would consist of approximately 85 feet of 30-inch-diameter natural gas pipeline and appurtenant facilities. The purpose of the facilities is to provide up to 1,000,000 dekatherms per day (Dth/d) of new bi-directional transportation service to the Burgos Hub area of Mexico and then to the United States once new sources of natural gas become available from Mexico.

The EA has been placed in the public files of the FERC. A limited number of copies of the EA are available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference Room, 888 First Street, NE., Room 2A, Washington, DC 20426, (202) 502-8371.

Copies of the EA have been mailed to Federal, State, and local agencies, public interest groups, interested individuals, newspapers, and parties to this proceeding.

Any person wishing to comment on the EA may do so. To ensure consideration prior to a Commission decision on the proposal, it is important that we receive your comments before the date specified below.

Please note that the Commission strongly encourages electronic filing of any comments or interventions or protests to this proceeding. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at <http://www.ferc.gov> under the "e-Filing" link and the link to the User's Guide. Before you can file comments you will need to create a free account which can be created by clicking on "Sign-up."

If you are filing written comments, please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send an original and two copies of your comments to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426;
- Reference Docket Nos. CP07-74-000, *et al.*;
- Label one copy of the comments for the attention of the Gas Branch 1, PJ-11.1; and
- Mail your comments so that they will be received in Washington, DC on or before June 14, 2007.

Comments will be considered by the Commission but will not serve to make the commentator a party to the proceeding. Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214).<sup>1</sup> Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your comments considered.

Additional information about the project is available from the Commission's Office of External Affairs, at 1-866-208-FERC or on the FERC

Internet Web site (<http://www.ferc.gov>) using the eLibrary link. Click on the eLibrary link, click on "General Search" and enter the docket number excluding the last three digits in the Docket Number field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at [FercOnlineSupport@ferc.gov](mailto:FercOnlineSupport@ferc.gov) or toll free at 1-866-208-3676, or for TTY, contact (202) 502-8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries and direct links to the documents. Go to <http://www.ferc.gov/esubscribenow.htm>.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. E7-9678 Filed 5-18-07; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 2237-017]

#### Georgia Power Company; Notice of Application Accepted for Filing, Soliciting Motions To Intervene and Protests, Ready for Environmental Analysis, and Soliciting Comments, Recommendations, Preliminary Terms and Conditions, and Preliminary Fishway Prescriptions

May 11, 2007

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

- a. *Type of Application:* New Major License.
- b. *Project No.:* P-2237-017.
- c. *Date filed:* February 27, 2007.
- d. *Applicant:* Georgia Power Company.
- e. *Name of Project:* Morgan Falls Hydroelectric Project.

f. *Location:* The existing project is located in the metropolitan city of Atlanta area on the Chattahoochee River, at river mile 312.6, and about 36 miles downstream from the U.S. Corps of Engineers' Buford dam (Lake Sidney Lanier) in Cobb and Fulton Counties, Georgia. The project occupies about 14.4

acres of federal lands within the Chattahoochee River National Recreation Area managed by the National Park Service.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Douglas E. Jones, Senior Vice-President, Southern Company Generation, 241 Ralph McGill Boulevard NE., Bin 10240, Atlanta, Georgia 30308-3374, Telephone (404) 506-7328; or George A. Martin, Project Manager, at (404) 506-1357 or e-mail at [gmartin@southernco.com](mailto:gmartin@southernco.com). Additional information on this project is available on the applicant's Web site: [www.southerncompany.com/gapower/hydro](http://www.southerncompany.com/gapower/hydro).

i. *FERC Contact:* Janet Hutzel at (202) 502-8675, or by e-mail at [janet.hutzel@ferc.gov](mailto:janet.hutzel@ferc.gov).

j. Deadline for filing motions to intervene and protests, comments, recommendations, preliminary terms and conditions, and preliminary fishway prescriptions is 60 days from the issuance of this notice; reply comments are due 105 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Motions to intervene, protests, comments, recommendations, preliminary terms and conditions, and preliminary fishway prescriptions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site <http://www.ferc.gov> under the "e-Filing" link.

k. This application has been accepted for filing and is now ready for environmental analysis.

l. *Project Description:* The existing project consists of the following: (1) A 1,031-foot-long, 56-foot-maximum height concrete gravity dam consisting of a 46-foot-long non-overflow westerly abutment; a 680-foot-long gated spillway with sixteen 40-foot-wide by 8-foot-tall Taintor gates; a 21-foot-long trash gate section containing one 8-foot-

<sup>1</sup> Interventions may also be filed electronically via the Internet in lieu of paper. See the previous discussion on filing comments electronically.

wide by 4-foot-tall trash gate; a 195-foot-long, 73-foot-high combined powerhouse and intake section integral with the dam containing seven horizontal double runner Francis turbines coupled to seven generating units with a total generating capacity of 16.8 megawatt; and an 89-foot-long non-overflow easterly abutment; (2) a 684-acre reservoir (Bull Sluice Lake) at normal full pool elevation of 866.0 feet plant datum,<sup>1</sup> with 2,239 acre-feet of usable storage; and (3) appurtenant facilities. The average annual generation at the project is about 15,221 megawatt-hours. The applicant has no plans to modify the existing project facilities or the current modified run-of-river mode of operation.

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact *FERC Online Support* at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or toll-free at 1-866-208-3676, or for TTY, 202-502-8659. A copy is also available for inspection and reproduction at the address in item h above.

Register online at <http://www.ferc.gov/esubscribenow.htm> to be notified via e-mail of new filings and issuances related to this or other

pending projects. For assistance, contact FERC Online Support.

n. Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

*All filings must:* (1) bear in all capital letters the title "PROTEST," "MOTION TO INTERVENE," "COMMENTS," "REPLY COMMENTS," "RECOMMENDATIONS," "PRELIMINARY TERMS AND CONDITIONS," or "PRELIMINARY FISHWAY PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain

copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

*o. Procedural Schedule:*

The application will be processed according to the following Hydro Licensing Schedule. Revisions to the schedule may be made as appropriate.

At this time we do not anticipate the need for preparing a draft environmental assessment (EA). We intend to prepare one environmental document. The EA will include our recommendations for operating procedures and environmental enhancement measures that should be part of any new license issued by the Commission. Recipients will have 30 days to provide the Commission with any comments on that document. All comments on the EA, filed with the Commission, will be considered in an Order taking final action on the license application. However, should substantive comments requiring reanalysis be received on the NEPA document, we would consider preparing a subsequent NEPA document.

Milestone	Target date
Interventions, recommendations, preliminary terms and conditions, and fishway prescriptions due .....	July 12, 2007.
Reply comments due .....	August 26, 2007.
FERC issues single EA (without a draft) .....	November 9, 2007.
Comments on EA due .....	December 9, 2007.
Filing of modified terms and conditions .....	February 8, 2008.

p. Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of this notice.

q. A license applicant must file no later than 60 days following the date of issuance of the notice of acceptance and ready for environmental analysis provided for in § 5.22: (1) A copy of the water quality certification; (2) a copy of the request for certification, including proof of the date on which the certifying agency received the request; or (3)

evidence of waiver of water quality certification.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. E7-9683 Filed 5-18-07; 8:45 am]

**BILLING CODE 6717-01-P**

**DEPARTMENT OF ENERGY**

**Federal Energy Regulatory Commission**

**[Docket No. RM98-1-000]**

**Records Governing Off-the Record Communications; Public Notice**

May 15, 2007.

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant

<sup>1</sup> Plant datum = mean sea level + 12.39 ft.



to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record

communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. The communications listed are grouped by docket numbers in ascending order. These filings are available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the eLibrary link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC, Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or toll free at (866) 208-3676, or for TTY, contact (202) 502-8659.

Docket No.	Date received	Presenter or requester
Prohibited:		
1. Project No. 11858-000 .....	4-11-07	Diane Rice. <sup>1</sup>
Exempt:		
1. Project No. 2155-000 .....	5-7-07	Frank Winchell.
2. Project No. 12667-000 .....	4-30-07	Hon. Sherrod Brown.
3. Project No. 12667-000 .....	4-30-07	Hon. Ted Strickland.

<sup>1</sup>One of thirty comments submitted between April 11, 2007 and May 3, 2007, in the Lake Elsinore Pump Storage Project proceeding.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. E7-9676 Filed 5-18-07; 8:45 am]

BILLING CODE 6717-01-P

## ENVIRONMENTAL PROTECTION AGENCY

[Docket # EPA-RO4-SFUND-2007-0396; FRL-8316-6]

### Browder Trust Property Charleston, Charleston County, SC; Notice of Settlement

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of settlement.

**SUMMARY:** Under Section 122(h) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the United States Environmental Protection Agency has entered into a settlement for reimbursement of past response costs concerning the Browder Trust Property Superfund Site located in Charleston, Charleston County, South Carolina.

**DATES:** The Agency will consider public comments on the settlement until June 20, 2007. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the

settlement is inappropriate, improper, or inadequate.

**ADDRESSES:** Copies of the settlement are available from Ms. Paula V. Batchelor. Submit your comments, identified by Docket ID No. EPA-RO4-SFUND-2007-0396 or Site name Browder Trust Property Superfund Site by one of the following methods:

- [www.regulations.gov](http://www.regulations.gov): Follow the on-line instructions for submitting comments.
- E-mail: [Batchelor.Paula@epa.gov](mailto:Batchelor.Paula@epa.gov).
- Fax: 404/562-8842/Attn Paula V. Batchelor.

**Mail:** Ms. Paula V. Batchelor, U.S. EPA Region 4, SD-SEIMB, 61 Forsyth Street, SW., Atlanta, Georgia 30303. "In addition, please mail a copy of your comments on the information collection provisions to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attn: Desk Officer for EPA, 725 17th St. NW., Washington, DC 20503."

**Instructions:** Direct your comments to Docket ID No. EPA-RO4-SFUND-2007-0396. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information

whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov) or e-mail. The [www.regulations.gov](http://www.regulations.gov) Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

**Docket:** All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly



available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the U.S. EPA Region 4 office located at 61 Forsyth Street, SW., Atlanta, Georgia 30303. Regional office is open from 7 a.m. until 6:30 p.m. Monday through Friday, excluding legal holidays.

Written comments may be submitted to Ms. Batchelor within 30 calendar days of the date of this publication.

**FOR FURTHER INFORMATION CONTACT:**

Paula V. Batchelor at 404/562-8887.

Dated: May 8, 2007.

**Rosalind H. Brown,**

*Chief, Superfund Enforcement & Information Management Branch, Superfund Division.*

[FR Doc. E7-9731 Filed 5-18-07; 8:45 am]

**BILLING CODE 6560-50-P**

## FEDERAL RESERVE SYSTEM

### Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than June 4, 2007.

**A. Federal Reserve Bank of Chicago**  
(Burl Thornton, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. *Audrey G. Savage*, Monticello, Iowa; to acquire control of Family Merchants Bancorporation, Cedar Rapids, Iowa, and thereby indirectly acquire control of Family Merchants Bank, Cedar Rapids, Iowa.

Board of Governors of the Federal Reserve System, May 15, 2007.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc. E7-9649 Filed 5-18-07; 8:45 am]

**BILLING CODE 6210-01-S**

## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at [www.ffiec.gov/nic/](http://www.ffiec.gov/nic/).

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 14, 2007.

**A. Federal Reserve Bank of Atlanta**  
(David Tatum, Vice President) 1000 Peachtree Street, NE., Atlanta, Georgia 30309:

1. *CapGen Capital Group LLC*, Washington, DC; to become a bank holding company by acquiring 100 percent of the voting shares of CapGen Capital Group LP, Washington, D.C., and thereby indirectly acquire voting shares of The BANKshares, Inc., Melbourne, Florida, and its subsidiaries, BankFIRST, Winter Park, Florida, and Bank Brevard, Melbourne, Florida. In connection with this application, CapGen Capital Group LP, Washington, DC, also has applied to become a bank holding company by acquiring 21.8 percent of the voting shares of The BANKshares, Inc., Melbourne, Florida, and thereby acquire voting shares of BankFIRST, Winter Park, Florida, and Bank Brevard, Melbourne, Florida.

Board of Governors of the Federal Reserve System, May 15, 2007.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc. E7-9647 Filed 5-18-07; 8:45 am]

**BILLING CODE 6210-01-S**

## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center Web site at [www.ffiec.gov/nic/](http://www.ffiec.gov/nic/).

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 15, 2007.

**A. Federal Reserve Bank of Atlanta**  
(David Tatum, Vice President) 1000 Peachtree Street, NE., Atlanta, Georgia 30309:

1. *Security Bank Corporation*, Macon, Georgia; to merge with First Commerce Community Bankshares, Inc., and thereby indirectly acquire First Commerce Community Bank, both of Douglasville, Georgia.

Board of Governors of the Federal Reserve System, May 16, 2007.

**Jennifer J. Johnson,**  
*Secretary of the Board.*

[FR Doc. E7-9673 Filed 5-18-07; 8:45 am]

BILLING CODE 6210-01-S

## FEDERAL RESERVE SYSTEM

### Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center Web site at [www.ffiec.gov/nic/](http://www.ffiec.gov/nic/).

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 15, 2007.

**A. Federal Reserve Bank of Cleveland** (Douglas A. Banks, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101-2566:

1. *National City Corporation*, Cleveland, Ohio; to acquire MAF Bancorp, Inc., and thereby acquire Mid America Bank, FSB, both of Clarendon Hills, Illinois, and thereby engage in operating a thrift subsidiary, pursuant to section 225.28(b)(4)(ii), and St. Francis Equity Properties, Inc., Brookfield, Wisconsin, and thereby engage in community development activities, pursuant to section 225.28(b)(12)(i); Equitable Finance Corporation, Clarendon Hills, Illinois, thereby engaging in consumer lending, pursuant to section 225.28(b)(1); and Computer

Dynamics, Clarendon Hills, Illinois, thereby engaging in data processing, pursuant to section 225.28(b)(14)(i), of Regulation Y.

Board of Governors of the Federal Reserve System, May 16, 2007.

**Jennifer J. Johnson,**  
*Secretary of the Board.*

[FR Doc. E7-9672 Filed 5-18-07; 8:45 am]

BILLING CODE 6210-01-S

## FEDERAL TRADE COMMISSION

### Agency Information Collection Activities; Submission for OMB Review; Comment Request

**AGENCY:** Federal Trade Commission.

**ACTION:** Notice.

**SUMMARY:** The information collection requirements described below will be submitted to the Office of Management and Budget ("OMB") for review, as required by the Paperwork Reduction Act ("PRA"). The Federal Trade Commission ("FTC" or "Commission") is seeking public comments on its proposal to extend through July 31, 2010 the current OMB clearance for information collection requirements contained in its proposed Affiliate Marketing Rule (or "proposed Rule"). That clearance expires on July 31, 2007.

**DATES:** Comments must be filed by June 20, 2007.

**ADDRESSES:** Interested parties are invited to submit written comments. Comments should refer to "Affiliate Marketing Rule: FTC File No. R411006" to facilitate the organization of comments. A comment filed in paper form should include this reference both in the text and on the envelope and should be mailed or delivered, with two complete copies, to the following address: Federal Trade Commission, Room H-135 (Annex J), 600 Pennsylvania Ave., NW., Washington, DC 20580. Because paper mail in the Washington area and at the Commission is subject to delay, please consider submitting your comments in electronic form, as prescribed below. However, if the comment contains any material for which confidential treatment is requested, it must be filed in paper form, and the first page of the document must be clearly labeled "Confidential." <sup>1</sup>

<sup>1</sup> Commission Rule 4.2(d), 16 CFR 4.2(d). The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the

Comments filed in electronic form should be submitted by following the instructions on the web-based form at <https://secure.commentworks.com/ftc-AffiliateMarketingRule>. To ensure that the Commission considers an electronic comment, you must file it on the web-based form at the <https://secure.commentworks.com/ftc-AffiliateMarketingRule> weblink. If this notice appears at [www.regulations.gov](http://www.regulations.gov), you may also file an electronic comment through that Web site. The Commission will consider all comments that [www.regulations.gov](http://www.regulations.gov) forwards to it.

All comments should additionally be submitted to: Office of Management and Budget, Attention: Desk Officer for the Federal Trade Commission. Comments should be submitted via facsimile to (202) 395-6974 because U.S. Postal Mail is subject to lengthy delays due to heightened security precautions.

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. All timely and responsive public comments will be considered by the Commission and will be available to the public on the FTC Web site, to the extent practicable, at [www.ftc.gov](http://www.ftc.gov). As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC Web site. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy at <http://www.ftc.gov/ftc/privacy.htm>.

#### FOR FURTHER INFORMATION CONTACT:

Requests for additional information should be addressed to Anthony Rodriguez or Loretta Garrison, Attorneys, Division of Privacy and Identity Protection, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326-2252.

**SUPPLEMENTARY INFORMATION:** On February 28, 2007, the FTC sought comment on the information collection requirements associated with its proposed rule. See 72 FR 9002. No comments were received. The FTC is providing this second opportunity for public comment while seeking OMB approval to extend the existing paperwork clearance for the Rule. All comments should be filed as prescribed in the **ADDRESSES** section above, and must be received on or before June 20, 2007.

public interest. See Commission Rule 4.9(c), 16 CFR 4.9(c).

The Affiliate Marketing Rule, 16 CFR Part 680, was proposed by the FTC under section 214 of the Fair and Accurate Credit Transactions Act ("FACT Act"), Pub. L. No. 108-159 (December 6, 2003). The FACT Act amended the Fair Credit Reporting Act, 15 U.S.C. 1681 *et seq.*, which was enacted to enable consumers to protect the privacy of their consumer credit information. As mandated by the FACT Act, the proposed Rule specifies disclosure requirements for certain affiliate companies subject to the Commission's jurisdiction. Except as discussed below, these requirements constitute "collections of information" for purposes of the PRA. Specifically, the FACT Act and the proposed Rule require covered entities to provide consumers with notice and an opportunity to opt out of the use of certain information before sending marketing solicitations. The proposed Rule generally provides that, if a company communicates certain information about a consumer ("eligibility information") to an affiliate, the affiliate may not use that information to make or send solicitations to the consumer unless the consumer is given notice and a reasonable opportunity to opt out of such use of the information and the consumer does not opt out.

To minimize compliance costs and burdens for entities, particularly any small businesses that may be affected, the proposed Rule contains model disclosures and opt-out notices that may be used to satisfy the statutory requirements. The proposed Rule also gives covered entities flexibility to satisfy the notice and opt-out requirement by sending the consumer a free-standing opt-out notice or by adding the opt-out notice to the privacy notices already provided to consumers, such as those provided in accordance with the provisions of Title V, subtitle A of the GLBA. For covered entities that choose to prepare a free-standing opt-out notice, the time necessary to prepare it would be minimal because those entities could simply use the model disclosure. For covered entities that choose to incorporate the model opt-out notice into their GLBA privacy notices the time necessary to do so also would be minimal. Arguably, verbatim adoption of the model notice would not even be a PRA "collection of information."<sup>2</sup>

### Burden Statement

Except where otherwise specifically noted, staff's estimates of burden are based on its knowledge of the consumer credit industries and knowledge of the entities over which the Commission has jurisdiction. This said, estimating PRA burden of the proposed Rule's disclosure requirements is difficult given the highly diverse group of affected entities that may use certain eligibility information shared by their affiliates to send marketing notices to consumers.

The estimates provided in this burden statement may well overstate actual burden. First, an uncertain but possibly significant number of entities subject to the FTC's jurisdiction do not have affiliates and would thus not be covered by section 214 of the FACT Act or the proposed Rule. Second, Commission staff does not know how many companies subject to the FTC's jurisdiction under the proposed rule actually share eligibility information among affiliates and, of those, how many affiliates use such information to make marketing solicitations to consumers. Third, staff considered the wide variations in covered entities and the fact that, in some instances, covered entities may make the required disclosures in the ordinary course of business, apart from the FACT Act Rule, voluntarily as a service to their customers. Finally, still other entities may choose to rely on the exceptions to the proposed Rule's notice and opt-out requirements.<sup>3</sup>

Staff's estimates assume a higher burden will be incurred during the first year of the OMB clearance period with a lesser burden for each of the subsequent two years, since the opt-out notice to consumers is required to be given only once. Institutions may provide for an indefinite period for the opt-out or they may time limit it, but for no less than five years. Given this minimum time period, Commission staff did not estimate burden for preparing and distributing extension notices by entities that limit the duration of the opt-out time period. The relevant PRA time frame for burden calculation is three years from renewed OMB clearance, and the five-year notice period will not begin until this proposed Rule becomes final.

Staff's labor cost estimates take into account: Managerial and professional time for reviewing internal policies and

determining compliance obligations; technical time for creating the notice and opt-out, in either paper or electronic form; and clerical time for disseminating the notice and opt-out.<sup>4</sup> In addition, staff's cost estimates presume that the availability of model disclosures and opt-out notices will simplify the compliance review and implementation processes, thereby significantly reducing the cost of compliance. Moreover, the proposed Rule gives entities considerable flexibility to determine the scope and duration of the opt-out. Indeed, this flexibility permits entities to send a single joint notice on behalf of all of its affiliates.

*Estimated total average annual hours burden:* 1,105,000 hours, rounded.

Staff estimates that approximately 1.17 million (rounded) non-GLBA entities under the jurisdiction of the FTC have affiliates and would be affected by the proposed Rule.<sup>5</sup> Staff further estimates that there are an average of 5 businesses per family or affiliated relationship, and that the affiliated entities will choose to send a joint notice, as permitted by the proposed Rule. Thus an estimated 233,400 (rounded) non-GLBA entities may send the new affiliate marketing notice. Staff also estimates that non-GLBA entities under the jurisdiction of the FTC would each incur 14 hours of burden during the three-year clearance period, comprised of a projected 7 hours of managerial time, 2 hours of technical time, and 5 hours of clerical assistance.

Based on the above, total burden for non-GLBA entities during the prospective three-year clearance period would be approximately 3,268,000 hours and associated labor cost approximately \$92,247,000, rounded.<sup>6</sup>

<sup>4</sup> No clerical time was included in staff's burden analysis for GLBA entities as the notice would likely be combined with existing GLBA notices.

<sup>5</sup> This estimate is derived from an analysis of a database of U.S. businesses based on SIC codes for businesses that market goods or services to consumers, which included the following industries: transportation services; communication; electric, gas, and sanitary services; retail trade; finance, insurance, and real estate; and services (excluding business services and engineering, management services). This estimate excludes businesses not subject to the FTC's jurisdiction as well as businesses that do not use data or information subject to the rule.

<sup>6</sup> The hourly rates are based on average annual Bureau of Labor Statistics National Compensation Survey data, June 2005 (with 2005 as the most recent whole year information available at the BLS Web site). <http://www.bls.gov/ncs/ocsc/sp/ncbl0832.pdf> (Table 1.1), and further adjusted by a multiplier of 1.06426, a compounding for approximate wage inflation for 2005 and 2006, based on the BLS Employment Cost Index. The dollar total above is derived from the estimated 7 hours of managerial labor at \$34.21 per hour; 2 hours of technical labor at \$29.80 per hour; and 5

<sup>2</sup> "The public disclosure of information originally supplied by the Federal government to the recipient for purpose of disclosure to the public is not included within [the definition of collection of information]" 5 CFR 1320(c)(2).

<sup>3</sup> Exceptions include, for example, having a preexisting business relationship with a consumer, using information in response to a communication initiated by the consumer or to solicitations authorized or requested by the consumer.

These estimates include the start-up burden and attendant costs, such as determining compliance obligations. However, non-GLBA entities will give notice only once during the clearance period ahead. Thus, averaged over that three-year period, the estimated annual burden for non-GLBA entities is 1,089,000 hours and \$30,749,000 in labor costs, rounded.<sup>7</sup>

Entities that are subject to the Commission's GLBA privacy notice regulation already provide privacy notices to their customers.<sup>8</sup> Because the FACT Act and the proposed Rule contemplate that the new affiliate marketing notice can be included in the GLBA notices, the burden on GLBA regulated entities would be greatly reduced. Accordingly, the GLBA entities would incur 6 hours of burden during the first year of the clearance period, comprised of a projected 5 hours of managerial time and 1 hour of technical time to execute the notice, given that the proposed Rule provides a model.<sup>9</sup> Staff also estimates that 3,350 GLBA entities under the FTC's jurisdiction would be affected, so that the total burden for GLBA entities during the first year of the clearance period would approximate 20,000 hours and \$716,000 in associated labor costs.<sup>10</sup> Allowing for increased familiarity with procedure, the paperwork burden in ensuing years would decline, with GLBA entities each incurring an estimated 4 hours of annual burden (3 hours of managerial time and 1 hour of technical time) during the remaining two years of the clearance, amounting to 13,400 hours and \$472,000 in labor costs in each of the ensuing two years. Thus, averaged over the three-year clearance period, the estimated annual burden for GLBA entities is 15,600 hours and \$553,000 in labor costs.

Cumulatively for both GLBA and non-GLBA entities, the average annual burden over the prospective three-year clearance period, rounded, is approximately 1,105,000 burden hours

hours of clerical labor at \$14.44 per hour—a combined \$371.27—multiplied by 1.06426 (a combined \$395.13)—for the estimated 233,400+ non-GLBA business families subject to the proposed Rule.

<sup>7</sup> 3,268,000 hours ÷ 3 = 1,089,000; \$92,247,000 ÷ 3 = \$30,749,000.

<sup>8</sup> Financial institutions must provide a privacy notice at the time the customer relationship is established and then annually so long as the relationship continues. Staff's estimates assume that the affiliate marketing opt-out will be incorporated in the institution's initial and annual notices.

<sup>9</sup> As stated above, no clerical time is included in the estimate because the notice likely would be combined with existing GLBA notices.

<sup>10</sup> 3,350 GLBA entities × [(\$34.20 × 5 hours) + (\$29.80 × 1 hour)] × 1.06426 wage multiplier (see note 6).

and \$31,302,000 in labor costs, rounded. GLBA entities are already providing notices to their customers so there are no new capital or non-labor costs, as this notice may be consolidated into their current notices. For non-GLBA entities, the rule provides for simple and concise model forms that institutions may use to comply. Thus, any capital or non-labor costs associated with compliance for these entities are negligible.

**William Blumenthal,**

*General Counsel.*

[FR Doc. E7-9711 Filed 5-18-07; 8:45 am]

**BILLING CODE 6750-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of the Secretary

#### Findings of Research Misconduct

**AGENCY:** Office of the Secretary, HHS.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the Office of Research Integrity (ORI) and the Assistant Secretary for Health have taken final action in the following case:

*Kartik Prabhakaran, University of Pittsburgh:* Based on the report of an inquiry conducted by the University of Pittsburgh (UP), extensive oral and written admissions by the Respondent, and additional analysis conducted by the Office of Research Integrity (ORI) during its oversight review, the U.S. Public Health Service (PHS) found that Mr. Kartik Prabhakaran, former graduate student in the joint M.D./Ph.D. program at UP, engaged in research misconduct while supported by National Institutes of Neurological Disorders and Stroke (NINDS), National Institutes of Health (NIH), grant F30 NS0905-01 and National Eye Institute (NEI), NIH, grants 5 R01 EY005945, 5 P30 EY008098, and 5 R01 EY015291.

Specifically, Mr. Prabhakaran falsified and fabricated data that was included in a PowerPoint presentation and in a paper published in *Immunity* (2005). Mr. Prabhakaran's research misconduct occurred while he was a student in the M.D./Ph.D. program for UP's School of Medicine. He is no longer in UP's Ph.D. program but is still enrolled in its M.D. program in the School of Medicine. The *Immunity* publication has been retracted (*Immunity* 24:657, May 2006).

Mr. Prabhakaran has entered into a Voluntary Exclusion Agreement in which he has voluntarily agreed, for a

period of four (4) years, beginning on March 15, 2007:

(1) To exclude himself from serving in any advisory capacity to PHS, including but not limited to service on any PHS advisory committee, board, and/or peer review committee, or as a consultant; and

(2) That any institution that submits an application for PHS support for a research project on which Mr. Prabhakaran's participation is proposed, that uses him in any capacity on PHS supported research, or that submits a report of PHS-funded research in which he is involved must concurrently submit a plan for supervision of his duties to the funding agency for approval. The supervisory plan must be designed to ensure the scientific integrity of his research contribution. Mr. Prabhakaran agreed to ensure that a copy of the supervisory plan also is submitted to ORI by the institution. Mr. Prabhakaran agreed that he will not participate in any PHS-supported research until such a supervision plan is submitted to ORI.

#### FOR FURTHER INFORMATION CONTACT:

Director, Division of Investigative Oversight, Office of Research Integrity, 1101 Wootton Parkway, Suite 750, Rockville, MD 20852, (240) 453-8800.

**Chris B. Pascal,**

*Director, Office of Research Integrity.*

[FR Doc. E7-9735 Filed 5-18-07; 8:45 am]

**BILLING CODE 4150-31-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

#### Proposed Information Collection Activity; Comment Request Proposed Projects

*Title:* Case Plan Requirement, Section 442, 471(a)(16), 475(1) and 475(5)(A) of the Social Security Act.

*OMB No.:* 0980-0140.

*Description:* The Administration for Children and Families (ACF) is requesting authority to renew an existing information collection that is expiring October 31, 2007. The collection of information for the case plan requirement is authorized by titles IV-B, Section 422 (42 U.S.C. 422), and IV-E, Sections 471 and 475 (42 U.S.C. 471 and 475) of the Social Security Act (the Act). States must develop State plans for both Titles IV-B and IV-E that are approved by the Secretary, U.S. Department of Health and Human Services. Both plans require that States maintain a case review system that periodically reviews case plans

developed for each child receiving services under the Act.

Title IV-B provides for child welfare services funding and title IV-E provides for foster care maintenance payments for eligible children. Sections 442(b)(2) and (8)(A)(ii) of the Act require States to coordinate services and assistance under Federal programs, including titles IV-B and IV-E, and to ensure that States are operating a case review system that meets the review system that meets the requirements of section 475(5) of the Act.

Title IV-E funding, Section 471(a) of the Act, requires that State plans

provide for the development of a case plan for each child receiving foster care maintenance payments and provide for a case review system that meets the requirements described in section 475(5)(B) of the Act with respect to each child.

The case plan is a written document that provides a narrative description of the child-specific program of care that addresses the needs of each child regarding safety, permanency and well-being. Federal regulations at 45 CFR 1356.21(g) and section 475(1) of the Act delineate the specific information that should be addressed in the case plan.

ACF neither specifies a recordkeeping format for the case plan nor requires submission of the case plan to the Federal Government. Case plan information is recorded in a format developed and maintained by State child welfare agencies. Case plans are periodically reviewed under the purview of State case review systems.

In computing the number of burden hours for this information collection, ACF based the annual burden estimates on States' experiences in developing case plans.

*Respondents:* State title IV-B and title IV-E Agencies.

#### ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number for responses per respondent	Average burden hours per response	Total burden hours
Case Plan .....	701,461	1	2.60	1,823,799

Estimated Total Annual Burden Hours: 1,823,799.

In compliance with the requirements of Section 3506(c)(2)(a) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. E-mail address: [infocollection@acf.hhs.gov](mailto:infocollection@acf.hhs.gov). All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: May 15, 2007.

**Robert Sargis,**

*Reports Clearance Officer.*

[FR Doc. 07-2501 Filed 5-18-07; 8:45 am]

**BILLING CODE 4184-01-M**

#### DEPARTMENT OF HEALTH AND HUMAN SERVICES

##### Administration for Children and Families

##### Statement of Organization, Functions and Delegation of Authority

Notice is hereby given that I have redelegated to the Regional Program Managers, Office of Child Support Enforcement, the following authorities vested in me by the Assistant Secretary of Administration for Children and Families in the memoranda dated February 16, 2007.

(a) Authorities Delegated.

1. The authority to approve Title IV-D State plans and amendments.

2. Authority to certify and transmit State requests for full collection services by the Secretary of Treasury and State applications to use courts of the United States to enforce court orders.

(b) Limitations.

1. These redelegations shall be exercised under financial and administrative requirements applicable to all Administration for Children and Families authorities.

2. The authority to approve Title IV-D State plans and amendments requires review and clearance by legal counsel and consultation with Central Office, Office of Child Support Enforcement,

except as provided in written guidelines issued by the Commissioner.

3. These authorities may not be redelegated.

(c) Effective Date.

This redelegation is effective on the date of signature.

(d) Effect on Existing Delegations.

This redelegation of authority supersedes all previous delegations from the Deputy Director/Commissioner, Office of Child Support Enforcement, on these subjects.

I hereby affirm and ratify any actions taken by any Regional Program Manager which, in effect, involved the exercise of these authorities prior to the effective date of this redelegation.

Dated: May 10, 2007.

**Margot Bean,**

*Deputy Director/Commissioner, Office of Child Support Enforcement.*

[FR Doc. E7-9671 Filed 5-18-07; 8:45 am]

**BILLING CODE 4184-01-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES****Food and Drug Administration**

[Docket No. 2006N-0278]

**Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Guidance for Industry on Continuous Marketing Applications: Pilot 2—Scientific Feedback and Interactions During Development of Fast Track Products Under the Prescription Drug User Fee Act****AGENCY:** Food and Drug Administration, HHS.**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

**DATES:** Fax written comments on the collection of information by June 20, 2007.

**ADDRESSES:** To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202-395-6974. All comments should be identified with the OMB control number 0910-0518. Also include the FDA docket number found in brackets in the heading of this document.

**FOR FURTHER INFORMATION CONTACT:** Liz Berbakos, Office of the Chief Information Officer (HFA-250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-1482.

**SUPPLEMENTARY INFORMATION:** In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

**Guidance for Industry on Continuous Marketing Applications: Pilot—Scientific Feedback and Interactions During Development of Fast Track Products Under the Prescription Drug User Fee Act (OMB Control Number 0910-0518)—Extension**

FDA is requesting OMB approval under the PRA (44 U.S.C. 3507) for the reporting and recordkeeping requirements contained in the guidance for industry entitled “Continuous Marketing Applications (CMA): Pilot 2—Scientific Feedback and Interactions

During Development of Fast Track Products Under PDUFA.” This guidance discusses how the agency will implement a pilot program for frequent scientific feedback and interactions between FDA and applicants during the investigational phase of the development of certain Fast Track drug and biological products. Applicants are asked to apply to participate in the Pilot 2 program.

In conjunction with the June 2002 reauthorization of the Prescription Drug User Fee Act of 1992 (PDUFA), FDA agreed to meet specific performance goals (PDUFA Goals). The PDUFA Goals include two pilot programs to explore the CMA concept. The CMA concept builds on the current practice of interaction between FDA and applicants during drug development and application review and proposes opportunities for improvement. Under the CMA pilot program, Pilot 2, certain drug and biologic products that have been designated as Fast Track (i.e., products intended to treat a serious and/or life-threatening disease for which there is an unmet medical need) are eligible to participate in the program.

Pilot 2 is an exploratory program that allows FDA to evaluate the impact of frequent scientific feedback and interactions with applicants during the investigational new drug application (IND) phase. Under the pilot program, a maximum of one Fast Track product per review division in FDA’s Center for Drug Evaluation and Research (CDER) and Center for Biologics Evaluation and Research (CBER) is selected to participate. This guidance provides information regarding the selection of participant applications for Pilot 2, the formation of agreements between FDA and applicants on the IND communication process, and other procedural aspects of Pilot 2. FDA began accepting applications for participation in Pilot 2 on October 1, 2003.

The guidance describes one collection of information: Applicants who would like to participate in Pilot 2 must submit an application (Pilot 2 application) containing certain information outlined in the guidance. The purpose of the Pilot 2 application is for the applicants to describe how their designated Fast Track product would benefit from enhanced communications between FDA and the applicant during the product development process.

FDA’s regulation at § 312.23 (21 CFR 312.23) states that information provided to the agency as part of an IND must be submitted in triplicate and with an appropriate cover form. Form FDA 1571 must accompany submissions under INDs. 21 CFR part 312 and FDA Form

1571 have a valid OMB control number: OMB control number 0910-0014, which expires May 31, 2009.

In the guidance document, CDER and CBER ask that a Pilot 2 application be submitted as an amendment to the application for the underlying product under the requirements of § 312.23; therefore, Pilot 2 applications should be submitted to the agency in triplicate with Form FDA 1571. The agency recommends that a Pilot 2 application be submitted in this manner for two reasons: (1) To ensure that each Pilot 2 application is kept in the administrative file with the entire underlying application and (2) to ensure that pertinent information about the Pilot 2 application is entered into the appropriate tracking databases. Use of the information in the agency’s tracking databases enables the agency to monitor progress on activities.

Under the guidance, the agency asks applicants to include the following information in the Pilot 2 application:

- Cover letter prominently labeled “Pilot 2 application”;
- IND number;
- Date of Fast Track designation;
- Date of the end-of-phase 1 meeting, or equivalent meeting and summary of the outcome;
- A timeline of milestones from the drug or biological product development program, including projected date of new drug application (NDA)/biologics license application submissions;
- Overview of the proposed product development program for a specified disease and indication(s), providing information about each of the review disciplines (e.g., chemistry/manufacturing/controls, pharmacology/toxicology, clinical, clinical pharmacology and biopharmaceutics);
- Rationale for interest in participating in Pilot 2, specifying the ways in which development of the subject drug or biological product would be improved by frequent scientific feedback and interactions with FDA and the potential for such communication to benefit public health by improving the efficiency of the product development program; and
- Draft agreement for proposed feedback and interactions with FDA.

This information is used by the agency to determine which Fast Track products are eligible for participation in Pilot 2. Participation in this pilot program is voluntary.

Based on the number of Pilot 2 applications submitted to CDER and CBER during fiscal year 2004 and 2005, we estimate that the number of applications received annually for Pilot 2 is 7 for products regulated by CDER

and 1 for products regulated by CBER. FDA anticipates that approximately 7 applicants (respondents) will submit these Pilot 2 applications annually to CDER and approximately 1 applicant (respondent) will submit these Pilot 2 applications annually to CBER. The hours per response, which is the estimated number of hours that a

respondent would spend preparing the information to be submitted in a Pilot 2 application in accordance with the guidance, is estimated to be approximately 80 hours. Based on FDA's experience, we expect it will take respondents this amount of time to obtain and draft the information to be submitted with a Pilot 2 application.

Therefore, the agency estimates that applicants use approximately 640 hours annually to submit the Pilot 2 applications.

In the **Federal Register** of July 24, 2006 (71 FR 41819), FDA published a 60-day notice requesting public comment on the information collection provisions. No comments were received.

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN<sup>1</sup>

Pilot 2 Application	No. of Respondents	No. of Responses per Response	Total Responses	Hours per Response	Total Hours
CDER	7	1	7	80	560
CBER	1	1	1	80	80
Total					640

<sup>1</sup>There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: May 15, 2007.

**Jeffrey Shuren,**

*Assistant Commissioner for Policy.*

[FR Doc. E7-9709 Filed 5-18-07; 8:45 am]

BILLING CODE 4160-01-S

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. 2007E-0066]

#### Determination of Regulatory Review Period for Purposes of Patent Extension; NOXAFIL

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) has determined the regulatory review period for NOXAFIL and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

**ADDRESSES:** Submit written comments and petitions to the Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to <http://www.fda.gov/dockets/ecomments>.

**FOR FURTHER INFORMATION CONTACT:** Beverly Friedman, Office of Regulatory Policy (HFD-007), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-594-2041.

**SUPPLEMENTARY INFORMATION:** The Drug Price Competition and Patent Term

Restoration Act of 1984 (Public Law 98-417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100-670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the human drug product becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product NOXAFIL (posaconazole). NOXAFIL is indicated for prophylaxis of invasive *Aspergillus* and *Candida* infections in patients, 13 years of age and older, who are at high

risk of developing these infections due to being severely immunocompromised, such as hematopoietic stem cell transplant recipients with Graft versus Host Disease or those with hematologic malignancies with prolonged neutropenia from chemotherapy. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for NOXAFIL (U.S. Patent No. 5,661,151) from Schering Corp., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated March 12, 2007, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of NOXAFIL represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for NOXAFIL is 3,650 days. Of this time, 3,382 days occurred during the testing phase of the regulatory review period, while 268 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(i)) became effective:* September 19, 1996. The applicant claims November 6, 1996, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was September 19, 1996, which was 30 days after FDA receipt of the first IND.



2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the act:* December 22, 2005. The applicant claims December 21, 2005, as the date the new drug application (NDA) for NOXAFIL (NDA 22-003) was initially submitted. However, FDA records indicate that NDA 22-003 was submitted on December 22, 2005.

3. *The date the application was approved:* September 15, 2006. FDA has verified the applicant's claim that NDA 22-003 was approved on September 15, 2006.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,789 days of patent term extension.

Anyone with knowledge that any of the dates as published are incorrect may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments and ask for a redetermination by July 20, 2007. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by November 19, 2007. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41-42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Division of Dockets Management. Three copies of any mailed information are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 7, 2007.

**Jane A. Axelrad,**

*Associate Director for Policy, Center for Drug Evaluation and Research.*

[FR Doc. E7-9730 Filed 5-18-07; 8:45 am]

**BILLING CODE 4160-01-S**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. 2004E-0398]

#### Determination of Regulatory Review Period for Purposes of Patent Extension; IRESSA

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) has determined the regulatory review period for IRESSA and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

**ADDRESSES:** Submit written comments and petitions to the Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to <http://www.fda.gov/dockets/ecomments>.

**FOR FURTHER INFORMATION CONTACT:** Beverly Friedman, Office of Regulatory Policy (HFD-007), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-594-2041.

**SUPPLEMENTARY INFORMATION:** The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98-417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100-670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the human drug product becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period

may count toward the actual amount of extension that the Director of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product IRESSA (gefitinib). IRESSA is indicated as monotherapy for the continued treatment of patients with locally advanced or metastatic non-small cell lung cancer after failure of both platinum-based and docetaxel chemotherapies who are benefiting or have benefited from IRESSA. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for IRESSA (U.S. Patent No. 5,770,599) from AstraZeneca UK Limited, and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated October 19, 2004, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of IRESSA represented the first permitted commercial marketing or use of the product. Thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for IRESSA is 1,967 days. Of this time, 1,693 days occurred during the testing phase of the regulatory review period, while 274 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(i)) became effective:* December 17, 1997. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on December 17, 1997.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the act:* August 5, 2002. FDA has verified the applicant's claim that the new drug application (NDA) for Iressa (NDA 21-399) was initially submitted on August 5, 2002.

3. *The date the application was approved:* May 5, 2003. FDA has verified the applicant's claim that NDA 21-399 was approved on May 5, 2003.



This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 374 days of patent term extension.

Anyone with knowledge that any of the dates as published are incorrect may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments and ask for a redetermination by July 20, 2007. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by November 19, 2007. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Division of Dockets Management. Three copies of any mailed information are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document.

Comments and petitions may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 7, 2007.

**Jane A. Axelrad,**

*Associate Director for Policy, Center for Drug Evaluation and Research.*

[FR Doc. E7–9733 Filed 5–18–07; 8:45 am]

**BILLING CODE 4160–01–S**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. 2002E–0156]

#### Determination of Regulatory Review Period for Purposes of Patent Extension; GALILEO INTRAVASCULAR RADIOTHERAPY SYSTEM

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) has determined the regulatory review period for GALILEO INTRAVASCULAR RADIOTHERAPY SYSTEM and is

publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that medical device.

**ADDRESSES:** Submit written comments and petitions to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to <http://www.fda.gov/dockets/ecomments>.

**FOR FURTHER INFORMATION CONTACT:** Beverly Friedman, Office of Regulatory Policy (HFD–007), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041.

**SUPPLEMENTARY INFORMATION:** The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For medical devices, the testing phase begins with a clinical investigation of the device and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the device and continues until permission to market the device is granted. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of Patents and Trademarks may award (half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a medical device will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(3)(B).

FDA recently approved for marketing the medical device, GALILEO INTRAVASCULAR RADIOTHERAPY SYSTEM. GALILEO INTRAVASCULAR RADIOTHERAPY SYSTEM is indicated to deliver beta radiation to the site of successful percutaneous coronary intervention (PCI) for the treatment of

in-stent restenosis in native coronary arteries with discrete lesions  $\leq 47$  millimeters (mm) in a reference vessel diameter 2.4 mm to 3.7 mm. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for GALILEO INTRAVASCULAR RADIOTHERAPY SYSTEM (U.S. Patent No. 5,199,939) from Guidant Corp., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated October 31, 2002, FDA advised the Patent and Trademark Office that this medical device had undergone a regulatory review period and that the approval of GALILEO INTRAVASCULAR RADIOTHERAPY SYSTEM represented the first permitted commercial marketing or use of the product. Thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for GALILEO INTRAVASCULAR RADIOTHERAPY SYSTEM is 1,523 days. Of this time, 1,203 days occurred during the testing phase of the regulatory review period, while 320 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 520(g) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360j(g)) involving this device became effective:* September 3, 1997. FDA has verified the applicant's claim that the date the investigational device exemption (IDE) required under section 520(g) of the act for human tests to begin became effective September 3, 1997.

2. *The date the application was initially submitted with respect to the device under section 515 of the act (21 U.S.C. 360e):* December 18, 2000. The applicant claims March 13, 2000, as the date the premarket approval application (PMA) for GALILEO INTRAVASCULAR RADIOTHERAPY SYSTEM (PMA P000052) was initially submitted. However, FDA records indicate that PMA P000052 was completely submitted on December 18, 2000.

3. *The date the application was approved:* November 2, 2001. FDA has verified the applicant's claim that PMA P000052 was approved on November 2, 2001.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension.

In its application for patent extension, this applicant seeks 1,062 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments and ask for a redetermination by July 20, 2007. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by November 19, 2007. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Division of Dockets Management. Three copies of any mailed information are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 7, 2007.

**Jane A. Axelrad,**

*Associate Director for Policy, Center for Drug Evaluation and Research.*

[FR Doc. E7-9720 Filed 5-18-07; 8:45 am]

**BILLING CODE 4160-01-S**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. 2007N-0195]

#### Science Board to the Food and Drug Administration; Notice of Meeting

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

**Name of Committee:** Science Board to the Food and Drug Administration (Science Board).

**General Function of the Committee:** The Science Board provides advice primarily to the Commissioner of Food and Drugs and other appropriate officials on specific complex and technical issues as well as emerging issues within the scientific community in industry and academia. Additionally,

the Science Board provides advice to the agency on keeping pace with technical and scientific evolutions in the fields of regulatory science, on formulating an appropriate research agenda, and on upgrading its scientific and research facilities to keep pace with these changes. It will also provide the means for critical review of agency sponsored intramural and extramural scientific research programs.

**Date and Time:** The meeting will be held on June 14, 2007, from 8 a.m. to 4 p.m.

**Addresses:** Electronic comments should be submitted to <http://www.fda.gov/dockets/ecomments>. Select Docket No. 2007N-0195—Science Board and follow prompts to submit your statement. Written comments should be submitted to the Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1066, Rockville, MD 20852, by close of business on June 7, 2007. All comments received will be posted without change, including any personal information provided. Comments received on or before June 7, 2007, will be provided to the committee before or at the meeting.

**Location:** Holiday Inn Gaithersburg, Two Montgomery Village Ave., Gaithersburg, MD 20879, Grand Ballroom Conference Room.

**Contact Person:** Carlos Peña, Office of the Commissioner, Food and Drug Administration (HF-33), 5600 Fishers Lane, Rockville, Maryland, 20857, 301-827-6687, [carlos.Peña@fda.hhs.gov](mailto:carlos.Peña@fda.hhs.gov), or FDA Advisory Committee Information Line, 1-800-741-8138 (301-443-0572 in the Washington, DC area), code 3014512603. Please call the Information Line for up-to-date information on this meeting. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the agency's Web site and call the appropriate advisory committee hot line/phone line to learn about possible modifications before coming to the meeting.

**Agenda:** The Science Board will hear about and discuss the agency's bioinformatics initiative and fellowship program. The Science Board will then continue their discussion of the review of both the agency's science programs and the National Antimicrobial Resistance Monitoring System (NARMS) Program, from the March 31, 2006, Science Board meeting. Discussions will first include a subcommittee update to the Science Board on the progress of the review of the agency's science programs.

The Science Board will then hear about and discuss the subcommittee review of the NARMS Program including the public meeting regarding the NARMS Program on April 10, 2007, and subsequent deliberations. The Science Board will also hear about and discuss the agency's updates on drug safety, post approval surveillance, and food safety.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at <http://www.fda.gov/ohrms/dockets/ac/acmenu.htm>, click on the year 2007 and scroll down to the appropriate advisory committee link.

**Procedure:** Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before May 31, 2007. Two oral presentations from the public will be scheduled between approximately 11 a.m. and 12 p.m. and 3:15 p.m. and 4:15 p.m. Those desiring to make formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before May 23, 2007. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing sessions. The contact person will notify interested persons regarding their request to speak by May 24, 2007.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Carlos Peña at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: May 15, 2007.

**Randall W. Lutter,**

*Associate Commissioner for Policy and Planning.*

[FR Doc. E7-9737 Filed 5-18-07; 8:45 am]

BILLING CODE 4160-01-S

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. 2004N-0226]

#### Food and Drug Administration Modernization Act of 1997: Modifications to the List of Recognized Standards, Recognition List Number: 017

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing a publication containing modifications the agency is making to the list of standards FDA recognizes for use in premarket reviews (FDA recognized consensus standards). This publication, entitled "Modifications to the List of Recognized Standards, Recognition List Number: 017" (Recognition List Number: 017), will assist manufacturers who elect to declare conformity with consensus standards to meet certain requirements for medical devices.

**DATES:** Submit written or electronic comments concerning this document at any time. See section VII of this document for the effective date of the recognition of standards announced in this document.

**ADDRESSES:** Submit written requests for single copies of "Modifications to the List of Recognized Standards, Recognition List Number: 017" to the Division of Small Manufacturers, International and Consumer Assistance, Center for Devices and Radiological Health (HFZ-220), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist that office in processing your requests, or fax your request to 240-276-3151. Submit written comments concerning this document, or recommendations for additional standards for recognition, to the contact person (see **FOR FURTHER**

**INFORMATION CONTACT**). Submit electronic comments by e-mail: [standards@cdhrh.fda.gov](mailto:standards@cdhrh.fda.gov). This document may also be accessed on FDA's Internet site at <http://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfTopic/cdrhnew.cfm>. See section VI of this document for electronic access to the searchable database for the current list of FDA recognized consensus standards, including Recognition List Number: 017 modifications and other standards related information.

#### FOR FURTHER INFORMATION CONTACT:

Carol L. Herman, Center for Devices and Radiological Health (HFZ-84), Food and Drug Administration, 2098 Gaither Road, Rockville, MD 20850, 240-276-0533.

#### I. Background

Section 204 of the Food and Drug Administration Modernization Act of 1997 (FDAMA) (Public Law 105-115) amended section 514 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360d). Amended section 514 allows FDA to recognize consensus standards developed by international and national organizations for use in satisfying portions of device premarket review submissions or other requirements.

In a notice published in the **Federal Register** of February 25, 1998 (63 FR 9561), FDA announced the availability of a guidance entitled "Guidance on the Recognition and Use of Consensus Standards." The notice described how FDA would implement its standard recognition program and provided the initial list of recognized standards. Modifications to the initial list of recognized standards, as published in the **Federal Register**, are identified in table 1 of this document.

TABLE 1.

Federal Register Cite
October 16, 1998 (63 FR 55617)
July 12, 1999 (64 FR 37546)
November 15, 2000 (65 FR 69022)
May 7, 2001 (66 FR 23032)
January 14, 2002 (67 FR 1774)
October 2, 2002 (67 FR 61893)
April 28, 2003 (68 FR 22391)
March 8, 2004 (69 FR 10712)

TABLE 1.—Continued

Federal Register Cite
June 18, 2004 (69 FR 34176)
October 4, 2004 (69 FR 59240)
May 27, 2005 (70 FR 30756)
November 8, 2005 (70 FR 67713)
March 31, 2006 (71 FR 16313)
June 23, 2006 (71 FR 36121)
November 3, 2006 (71 FR 64718)

These notices describe the addition, withdrawal, and revision of certain standards recognized by FDA. The agency maintains "hypertext markup language (HTML)" and "portable document format (PDF)" versions of the list of "FDA Recognized Consensus Standards." Both versions are publicly accessible at the agency's Internet site. See section VI of this document for electronic access information. Interested persons should review the supplementary information sheet for the standard to understand fully the extent to which FDA recognizes the standard.

#### II. Modifications to the List of Recognized Standards, Recognition List Number: 017

FDA is announcing the addition, withdrawal, correction, and revision of certain consensus standards the agency will recognize for use in satisfying premarket reviews and other requirements for devices. FDA will incorporate these modifications in the list of FDA Recognized Consensus Standards in the agency's searchable database. FDA will use the term "Recognition List Number: 017 to identify these current modifications.

In Table 2 of this document, FDA describes the following modifications: (1) The withdrawal of standards and their replacement by others, (2) the correction of errors made by FDA in listing previously recognized standards, and (3) the changes to the supplementary information sheets of recognized standards that describe revisions to the applicability of the standards.

In section III of this document, FDA lists modifications the agency is making that involve the initial addition of standards not previously recognized by FDA.

TABLE 2.

Old Item No.	Standard	Change	Replacement Item No.
<b>A. Anesthesia</b>			
19	ISO 8382:1988: Resuscitators Intended for Use With Humans	Withdrawn	71
48	ASTM F1246–91(2005): Standard Specification for Electrically Powered Home Care Ventilators, Part 1—Positive-Pressure Ventilators and Ventilator Circuits	Withdrawn and replaced with newer version	70
<b>B. Biocompatibility</b>			
57	ASTM F895–84(2006): Standard Test Method for Agar Diffusion Cell Culture Screening for Cytotoxicity	Withdrawn and replaced with newer version	115
72	ASTM F1439–03: Standard Guide for Performance of Lifetime Bioassay for the Tumorigenic Potential of Implant Materials	Withdrawn and replaced with newer version	116
86	AAMI/ANSI/ISO 10993–10:2002(E): Biological Evaluation of Medical Devices—Part 10: Tests for Irritation and Sensitization	Withdrawn—duplicate	87
87	AAMI/ANSI/ISO 10993–10:2002: Biological Evaluation of Medical Devices—Part 10: Tests for Irritation and Delayed-type Hypersensitivity	Title	
99	ASTM F1904–98(2003): Standard Practice for Testing the Biological Responses to Particles In Vivo	Title	
<b>C. Dental/Ear, Nose, and Throat (ENT)</b>			
60	ANSI/ADA Specification No. 96:2000: Dental Water-Based Cements	Withdrawn and replaced with newer version	143
72	ISO 6877–2006: Dentistry—Root-canal Obturating Points	Withdrawn and replaced with newer version	137
85	ANSI/ADA Specification No. 15:2000, Synthetic Polymer Teeth	Withdrawn and replaced with newer version	138
91	ANSI/ADA Specification No. 80:2001, Dental Materials—Determination of Color Stability	Title	
114	ANSI/ADA Specification No. 48:2004, Visible Light Curing Units	Withdrawn and replaced with newer version	139
<b>D. General</b>			
2	IEC 60601–1, Medical Electrical Equipment—Part 1:General Requirements for Safety	Contact Person	
11	ISO 2859/1995, Sampling Procedures and Tables for Inspection By Attributes	Contact Person	
12	ISO 10012/1993, Quality Assurance Requirements for Measuring Equipment Part 1: Metrological Confirmation System for Measuring Equipment	Contact Person	
14	ANSI Z1.4/1993, Inspection by Attributes	Contact Person	
15	ANSI Z1.9/1993, Inspection by Variables	Contact Person	
18	ASTM D–4332/1991, Standard Practice for Conditioning Containers, Packages, or Packaging Components for Testing	Contact Person	
19	ASTM E–876/1995, Standard Practice for Use of Statistics in the Evaluation of Spectrometric Data	Contact Person	
20	ASTM F–1140/1988, Standard Test Method for Failure Resistance of Unrestrained and Nonrigid Packages for Medical Applications	Contact Person	
27	IEC 60601–1–1:2000, Medical Electrical Equipment—Part 1: General Requirement for Safety; Safety Requirements for Medical Electrical Systems	Contact Person	

TABLE 2.—Continued

Old Item No.	Standard	Change	Replacement Item No.
28	IEC 60601–1–2, (Second Edition, 2001), Medical Electrical Equipment—Part 1–2: General Requirements for Safety; Electromagnetic Compatibility—Requirements and Tests	Extent of Recognition	
29	AAMI/ANSI HE74–2001, Human Factors Design Process for Medical Devices	Contact Person	
31	ISO 15223, Medical Devices—Symbols to be Used With Medical Device Labels, Labeling and Information to be Supplied	Contact Person	
32	EN 980:1996+1:1999+A2:2001, Graphical Symbols for use in the Labeling of Medical Devices	Contact Person	
35	AAMI/ANSI/IEC 60601–1–2, Medical Electrical Equipment—Part 1–2: General Requirements for Safety—Collateral standard: Electromagnetic Compatibility—Requirements and Tests (Edition 2:2001 with Amendment 1:2004) (AAMI/ANSI/IEC 60601–1–2:2001 is the U.S. version of IEC 60601–1–2:2001, with identical requirements for electromagnetic compatibility (EMC) of medical electrical equipment.)	Standard Organizations	
E. General Hospital/General Plastic Surgery			
114	ISO 11608–1:2000 Pen-injectors for Medical Use—Part 1: Pen-injectors—Requirements and Test Methods	Contact Person	
115	ISO 11608–2:2000 Pen-injectors for Medical Use—Part 2: Needles—Requirements and Test Methods	Contact Person	
116	ISO 11608–3:2000 Pen-injectors for Medical Use—Part 3: Finished Cartridges—Requirements and Test Methods	Contact Person	
66 and 162	ISO 8536–1:2006 Infusion Equipment for Medical Use—Part 1: Infusion Glass Bottles	Withdrawn and replaced with newer version	172
53	ASTM D5151–99 (2006) Standard Test Method for Detection of Holes in Medical Gloves	Withdrawn and replaced with newer version	175
77	ASTM F1862–05 Standard Test Method for Resistance of Medical Face Masks to Penetration by Synthetic Blood (Horizontal Projection of Fixed Volume at a Known Velocity)	Withdrawn and replaced with newer version	181
80	ASTM E1112–00 (2006) Standard Specification for Electronic Thermometer for Intermittent Determination of Patient Temperature	Withdrawn and replaced with newer version	177
84	ASTM D6124–06 Standard Test Method for Residual Powder on Medical Gloves	Withdrawn and replaced with newer version	178
161	ISO 10555–1:1995/ Amendment 1:1999, Amendment 2:2004 Sterile, Single-use Intravascular Catheters—Part 1: General Requirements	Title	
85	ASTM 5250–06 Standard Specification for Poly(vinyl chloride) Gloves for Medical Application	Withdrawn and replaced with newer version	183
E. In Vitro Diagnostics			
91	CLSI EP7–A2, Interference Testing in Clinical Chemistry; Approved Guidelines—Second Edition	Withdrawn and replaced with newer version	127
F. Materials			
1	ASTM F67–06: Standard Specification for Unalloyed Titanium for Surgical Implant Applications (UNS R50250, UNS R50400, UNS R50550, UNS R50700)	Withdrawn and replaced with newer version	129
2	ASTM F75–01: Standard Specification for Cobalt–28 Chromium–6 Molybdenum Alloy Castings and Casting Alloy for Surgical Implants (UNS R30075)	Contact Person	
3	ASTM F90–01: Standard Specification for Wrought Cobalt–20 Chromium–15 Tungsten–10 Nickel Alloy for Surgical Implant Applications (UNS R30605)	Contact Person	

TABLE 2.—Continued

Old Item No.	Standard	Change	Replacement Item No.
10	ASTM F603–00: Standard Specification for High-Purity Dense Aluminum Oxide for Surgical Implant Application	Contact Person	
11	ASTM F620–06: Standard Specification for Alpha Plus Beta Titanium Alloy Forgings for Surgical Implants	Withdrawn and replaced with newer version	130
15	ASTM F745–00: Standard Specification for 18 Chromium–12.5 Nickel–2.5 Molybdenum Stainless Steel for Cast and Solution-Annealed Surgical Implant Applications	Contact Person	
26	ASTM F1314–01: Standard Specification for Wrought Nitrogen Strengthened 22 Chromium–13 Nickel–5 Manganese–2.5 Molybdenum Stainless Steel Alloy Bar and Wire for Surgical Implants (UNS S20910)	Contact Person	
27	ASTM F1341–99: Standard Specification for Unalloyed Titanium Wire UNS R50250, UNS R50400, UNS R50550, UNS R50700, for Surgical Implant Applications	Withdrawn	
30	ASTM F1537–00: Standard Specification for Wrought Cobalt–28–Chromium–6–Molybdenum Alloy for Surgical Implants (UNS R31537, UNS R31538, and UNS R31539)	Contact Person	
32	ASTM F1586–02: Standard Specification for Wrought Nitrogen Strengthened 21 Chromium–10 Nickel–3 Manganese–2.5 Molybdenum Stainless Steel Bar for Surgical Implants (UNS S31675)	Contact Person	
37	ASTM F1813–01: Standard Specification for Wrought Titanium–12 Molybdenum–6 Zirconium–2 Iron Alloy for Surgical Implant (UNS R58120)	Contact Person	
41	ASTM F2066–01: Standard Specification for Wrought Titanium–15 Molybdenum Alloy for Surgical Implant Applications (UNS R58150)	Contact Person	
43	ASTM F2146–01: Standard Specification for Wrought Titanium–3Aluminum–2.5Vanadium Alloy Seamless Tubing for Surgical Implant Applications (UNS R56320)	Contact Person	
44	ASTM F136–02a: Standard Specification for Wrought Titanium–6 Aluminum–4 Vanadium ELI (Extra Low Interstitial) Alloy for Surgical Implant Applications (UNS R56401)	Contact Person	
45	ASTM F562–02: Standard Specification for Wrought 35Cobalt–35Nickel–20Chromium–10Molybdenum Alloy for Surgical Implant Applications (UNS R30035)	Contact Person	
46	ASTM F621–02: Standard Specification for Stainless Steel Forgings for Surgical Implants	Contact Person	
47	ASTM F799–06: Standard Specification for Cobalt–28 Chromium–6 Molybdenum Alloy Forgings for Surgical Implants (UNS R31537, R31538, R31539)	Withdrawn and replaced with newer version	131
48	ASTM F899–02: Standard Specification for Stainless Steel for Surgical Instruments	Contact Person	
49	ASTM F1058–02: Standard Specification for Wrought 40Cobalt–20Chromium–16Iron–15Nickel–7Molybdenum Alloy Wire and Strip for Surgical Implant Applications (UNS R30003 and UNS R30008)	Contact Person	
50	ASTM F1091–02: Standard Specification for Wrought Cobalt–20 Chromium–15 Tungsten–10 Nickel Alloy Surgical Fixation Wire (UNS R30605)	Contact Person	
52	ASTM F1350–02: Standard Specification for Wrought 18 Chromium–14 Nickel–2.5 Molybdenum Stainless Steel Surgical Fixation Wire (UNS S31673)	Contact Person	
53	ASTM F1472–02a: Standard Specification for Wrought Titanium –6Aluminum –4Vanadium Alloy for Surgical Implant Applications (UNS R56400)	Contact Person	

TABLE 2.—Continued

Old Item No.	Standard	Change	Replacement Item No.
54	ASTM F1580–01: Standard Specification for Titanium and Titanium–6 Aluminum–4 Vanadium Alloy Powders for Coatings of Surgical Implants	Contact Person	
56	ISO 5832–1:1997: Implants for Surgery—Metallic materials—Part 1: Wrought Stainless Steel	Contact Person	
57	ISO 5832–2:1999: Implants for Surgery—Metallic Materials—Part 2: Unalloyed Titanium	Contact Person	
58	ISO 5832–3:1996: Implants for Surgery—Metallic Materials—Part 3: Wrought Titanium 6–Aluminium 4–Vanadium Alloy	Contact Person	
59	ISO 5832–4:1996: Implants for Surgery—Metallic Materials—Part 4: Cobalt-chromium-molybdenum Casting Alloy	Contact Person	
61	ISO 5832–6:1997: Implants for Surgery—Metallic Materials—Part 6: Wrought Cobalt-nickel-chromium-Molybdenum alloy	Contact Person	
62	ISO 5832–9:1992: Implants for Surgery—Metallic Materials—Part 9: Wrought High Nitrogen Stainless Steel	Contact Person	
63	ISO 5832–11:1994: Implants for Surgery—Metallic Materials—Part 11: Wrought Titanium 6–aluminium 7 niobium Alloy	Contact Person	
64	ISO 5832–12:1996: Implants for Surgery—Metallic Materials—Part 12: Wrought Cobalt-chromium-molybdenum Alloy	Contact Person	
66	ISO 6474:1994: Implants for Surgery—Ceramic Materials Based on High Purity Alumina	Contact Person	
68	ISO 13782:1996: Implants for Surgery—Metallic Materials—Unalloyed Tantalum for Surgical Implant Applications	Contact Person	
76	ASTM F138–03: Standard Specification for Wrought 18 Chromium–14 Nickel–2.5 Molybdenum Stainless Steel Bar and Wire for Surgical Implants (UNS S31673)	Contact Person	
77	ASTM F139–03: Standard Specification for Wrought 18 Chromium–14 Nickel–2.5 Molybdenum Stainless Steel Sheet and Strip for Surgical Implants (UNS S31673)	Contact Person	
79	ASTM F961–03: Standard Specification for Cobalt–35 Nickel–20 Chromium–10 Molybdenum Alloy Forgings for Surgical Implants [UNS R30035]	Contact Person	
80	ASTM F1088–04ae1: Standard Specification for Beta-Tricalcium Phosphate for Surgical Implantation	Withdrawn and replaced with newer version	132
81	ASTM F1609–03: Standard Specification for Calcium Phosphate Coatings for Implantable Materials	Contact Person	
82	ASTM F1713–03: Standard Specification for Wrought Titanium–13 Niobium–13 Zirconium Alloy for Surgical Implant Applications	Contact Person	
85	ASTM F1854–01: Standard Test Method for Stereological Evaluation of Porous Coatings on Medical Implants	Contact Person	
86	ASTM F1926–03: Standard Test Method for Evaluation of the Environmental Stability of Calcium Phosphate Coatings	Contact Person	
87	ASTM F1978–00e1: Standard Test Method for Measuring Abrasion Resistance of Metallic Thermal Spray Coatings by Using the Taber Abraser	Contact Person	
88	ASTM F2024–00: Standard Practice for X-Ray Diffraction Determination of Phase Content of Plasma-Sprayed Hydroxyapatite Coatings	Contact Person	
89	ASTM F1873–98: Standard Specification for High-Purity Dense Ytria Tetragonal Zirconium Oxide Polycrystal (Y-TZP) for Surgical Implant Applications	Contact Person	

TABLE 2.—Continued

Old Item No.	Standard	Change	Replacement Item No.
94	ASTM F601–03: Standard Practice for Fluorescent Penetrant Inspection of Metallic Surgical Implants	Contact Person	
95	ASTM F629–02: Standard Practice for Radiography of Cast Metallic Surgical Implants	Contact Person	
97	ASTM F2129–06: Standard Test Method for Conducting Cyclic Potentiodynamic Polarization Measurements to Determine the Corrosion Susceptibility of Small Implant Devices	Withdrawn and replaced with newer version	133
98	ASTM F451–99ae1: Standard Specification for Acrylic Bone Cement	Contact Person	
102	ASTM F2082–06: Standard Test Method for Determination of Transformation Temperature of Nickel-Titanium Shape Memory Alloys by Bend and Free Recovery	Withdrawn and replaced with newer version	134
103	ASTM F1801–97(2004): Standard Practice for Corrosion Fatigue Testing of Metallic Implant Materials	Contact Person and Type of Standard	
104	ASTM F1108–04: Standard Specification for Titanium–6Aluminum–4Vanadium Alloy Castings for Surgical Implants (UNS R56406)	Contact Person	
106	ASTM F648–04: Standard Specification for Ultra-High-Molecular-Weight Polyethylene Powder and Fabricated Form for Surgical Implants	Contact Person	
107	ASTM F746–04: Standard Test Method for Pitting or Crevice Corrosion of Metallic Surgical Implant Materials	Contact Person	
108	ASTM F1295–05: Standard Specification for Wrought Titanium–6 Aluminum–7 Niobium Alloy for Surgical Implant Applications (UNS R56700)	Contact Person	
110	ASTM F1377–04: Standard Specification for Cobalt–28 Chromium–6 Molybdenum Powder for Coating of Orthopedic Implants (UNS R30075)	Contact Person	
111	ASTM F1160–05: Standard Test Method for Shear and Bending Fatigue Testing of Calcium Phosphate and Metallic Medical and Composite Calcium Phosphate/Metallic Coatings	Contact Person	
112	ASTM F1044–05: Standard Test Method for Shear Testing of Calcium Phosphate Coatings and Metallic Coatings	Contact Person	
113	ASTM F1147–05: Standard Test Method for Tension Testing of Calcium Phosphate and Metal Coatings	Contact Person	
114	ASTM F2255–05: Standard Test Method for Strength Properties of Tissue Adhesives in Lap Shear by Tension Loading	Contact Person	
115	ASTM F2256–05: Standard Test Method for Strength Properties of Tissue Adhesives in T-Peel by Tension Loading	Contact Person	
116	ASTM F2258–05: Standard Test Method for Strength Properties of Tissue Adhesives in Tension	Contact Person	
117	ASTM F86–04: Standard Practice for Surface Preparation and Marking of Metallic Surgical Implants	Contact Person	
119	ASTM F688–05: Standard Specification for Wrought Cobalt–35 Nickel–20 Chromium–10 Molybdenum Alloy Plate, Sheet, and Foil for Surgical Implants (UNS R30035)	Contact Person	
120	ASTM F560–05: Standard Specification for Unalloyed Tantalum for Surgical Implant Applications (UNS R05200, UNS R05400)	Contact Person	
121	ASTM F2005–05: Standard Terminology for Nickel-Titanium Shape Memory Alloys	Contact Person	
122	ASTM F2063–05: Standard Specification for Wrought Nickel-Titanium Shape Memory Alloys for Medical Devices and Surgical Implants	Contact Person	



TABLE 2.—Continued

Old Item No.	Standard	Change	Replacement Item No.
123	ISO 5832-5:2005: Implants for Surgery—Metallic Materials—Part 5: Wrought Cobalt-chromium-tungsten-nickel Alloy	Contact Person	
125	ASTM F2004-05: Standard Test Method for Transformation Temperature of Nickel-Titanium Alloys by Thermal Analysis	Contact Person	
126	ASTM F561-05a: Practice for Retrieval and Analysis of Implanted Medical Devices, and Associated Tissues	Contact Person	
127	ISO 5834-2:1998: Implants for Surgery—Ultra-High-Molecular-Weight Polyethylene—Part 2: Moulded Forms	Contact Person	
G. OB-GYN/Gastroenterology			
35	ASTM D6324-05 Standard Test Methods for Male Condoms Made from Synthetic Materials	Withdrawn and replaced with newer version	41
H. Ophthalmic			
3	ISO 9340:1996 Optics and Optical Instruments—Contact lenses—Determination of Strains for Rigid Contact Lenses	Withdrawn	
12	ISO 11980:1997 Ophthalmic Optics—Contact Lenses and Contact Lens Care Products—Guidance for Clinical Investigations	Contact Person	
13	ISO 10942:2006 Ophthalmic Instruments—Direct Ophthalmoscopes	Withdrawn and replaced with newer version	37
15	ISO 9394:1998 Ophthalmic Optics—Contact Lenses and Contact Lens Care Products—Determination of Biocompatibility By Ocular Study Using Rabbit Eyes	Contact Person	
18	ISO 10943:2006 Ophthalmic Instruments—Indirect Ophthalmoscopes	Withdrawn and replaced with newer version	38
20	ISO 11979-1:2006 Ophthalmic implants—Intraocular Lenses—Part 1: Vocabulary	Withdrawn and replaced with newer version	40
23	ISO 11981:1999 Ophthalmic Optics—Contact Lenses And Contact Lens Care Products—Determination of Physical Compatibility of Contact Lens Care Products With Contact Lenses	Contact Person	
24	ISO 11986:1999 Ophthalmic Optics—Contact Lenses and Contact Lens Care Products—Guidelines for Determination of Preservative Uptake and Release	Contact Person	
34	ANSI Z80.20-2004 Ophthalmics—Contact Lenses—Standard Terminology, Tolerances, Measurements and Physicochemical Properties	Contact Person	
I. Orthopedic/Physical Medicine			
73	ISO 5838-1:1995: Implants for Surgery—Skeletal Pins and Wires—Part 1: Material and Mechanical Requirements	Contact Person	
74	ISO 5838-2:1991: Implants for Surgery—Skeletal Pins and Wires—Part 2: Steinmann Skeletal Pins—Dimensions	Contact Person	
75	ISO 5838-3:1993: Implants for Surgery—Skeletal Pins and Wires—Part 3: Kirschner Skeletal Wires	Contact Person	
79	ISO 7206-8:1995: Implants for Surgery—Partial and Total Hip Joint Prostheses—Part 8: Endurance Performance of Stemmed Femoral Components With Application of Torsion	Contact Person	
80	ISO 8828:1988: Implants for Surgery—Guidance on Care and Handling of Orthopaedic Implants	Contact Person	
81	ISO 9583:1993: Implants for Surgery—Non-destructive Testing—Liquid Penetrant Inspection of Metallic Surgical Implants	Contact Person	

TABLE 2.—Continued

Old Item No.	Standard	Change	Replacement Item No.
82	ISO 9584:1993: Implants for Surgery—Non-destructive Testing—Radiographic Examination of Cast Metallic Surgical Implants	Contact Person	
83	ISO 13402:1995: Surgical and Dental Hand Instruments—Determination of Resistance Against Autoclaving, Corrosion and Thermal Exposure	Contact Person	
121	ISO 7207–1:1994: Implants for Surgery—Components for Partial and Total Knee Joint Prostheses—Part 1: Classification, Definitions and Designation of Dimensions	Contact Person	
155	ISO 7207–2:1998: Implants for Surgery—Components for Partial and Total Knee Joint Prostheses—Part 2: Articulating Surfaces Made of Metal, Ceramic and Plastics Materials	Contact Person	
163	ASTM F543–02e1, Standard Specification and Test Methods for Metallic Medical Bone Screws	Withdrawn and replaced with newer version	202
166	ASTM F897–02: Standard Test Method for Measuring Fretting Corrosion of Osteosynthesis Plates and Screws	Contact Person	
167	ASTM F1089–02: Standard Test Method for Corrosion of Surgical Instruments	Contact Person	
168	ASTM F1781–03: Standard Specification for Elastomeric Flexible Hinge Finger Total Joint Implants	Contact Person	
171	ASTM F1814–97a(2003): Standard Guide for Evaluating Modular Hip and Knee Joint Components	Contact Person	
172	ASTM F1798–97(2003): Standard Guide for Evaluating the Static and Fatigue Properties of Interconnection Mechanisms and Subassemblies Used in Spinal Arthrodesis Implants	Contact Person	
175	ASTM F1582–98(2003): Standard Terminology Relating to Spinal Implants	Contact Person	
177	ASTM F1264–03: Standard Specification and Test Methods for Intramedullary Fixation Devices	Contact Person	
178	ASTM F1440–92(2002): Standard Practice for Cyclic Fatigue Testing of Metallic Stemmed Hip Arthroplasty Femoral Components Without Torsion	Contact Person	
179	ASTM F2068–03: Standard Specification for Femoral Prostheses—Metallic Implants	Contact Person	
180	ASTM F366–04: Standard Specification for Fixation Pins and Wires	Contact Person	
181	ASTM F1717–04: Standard Test Methods for Spinal Implant Constructs in a Vertebrectomy Model	Contact Person	
182	ASTM F1800–04: Standard Test Method for Cyclic Fatigue Testing of Metal Tibial Tray Components of Total Knee Joint Replacements	Contact Person	
183	ASTM F1875–98(2004): Standard Practice for Fretting Corrosion Testing of Modular Implant Interfaces: Hip Femoral Head-bore and Cone Taper Interface	Contact Person	
185	ASTM F2267–04: Standard Test Method for Measuring Load Induced Subsidence of an Intervertebral Body Fusion Device Under Static Axial Compression	Contact Person	
186	ASTM F2077–03: Test Methods for Intervertebral Body Fusion Devices	Contact Person	
187	ASTM F2193–02: Standard Specifications and Test Methods for Components Used in the Surgical Fixation of the Spinal Skeletal System	Contact Person	
188	ISO 14243–1:2002: Implants for Surgery—Wear of Total Knee-joint Prostheses—Part 1: Loading and Displacement Parameters for Wear-testing Machines with Load Control and Corresponding Environmental Conditions for Test	Contact Person	

TABLE 2.—Continued

Old Item No.	Standard	Change	Replacement Item No.
189	ISO 14243–2:2000: Implants for Surgery—Wear of Total Knee-joint Prostheses—Part 2: Methods of Measurement	Contact Person	
190	ISO 14243–3:2004: Implants for Surgery—Wear of Total Knee-joint Prostheses—Part 3: Loading and Displacement Parameters for Wear-Testing Machines with Displacement Control and Corresponding Environmental Conditions for Test	Contact Person	
191	ISO 14879–1:2000: Implants for Surgery—Total Knee-joint Prostheses—Part 1: Determination of Endurance Properties of Knee Tibial Trays	Contact Person	
192	ASTM F1223–05: Standard Test Method for Determination of Total Knee Replacement Constraint	Contact Person	
J. Radiology			
34	IEC 60601–2–7 (1998) Medical Electrical Equipment—Part 2–7: Particular Requirements for the Safety of High-Voltage Generators of Diagnostic X-ray Generators	Contact Person	
68	NEMA MS 4–2006 Acoustic Noise Measurement Procedure for Diagnosing Magnetic Resonance Imaging Devices	Withdrawn and replaced with newer version	151
101	ANSI / IESNA RP–27.1–05 Recommended Practice for Photobiological Safety for Lamps and Lamp Systems—General Requirements	Withdrawn and replaced with newer version	153
104	IEC 60601–2–33 (2006), Medical Electrical Equipment—Part 2–33: Particular Requirements for the Safety of Magnetic Resonance Equipment for Medical Diagnosis	Withdrawn and replaced with newer version	161
111	ISO 11554:2006 Optics and Photonics—Lasers and Laser-Related equipment—Test Methods for Laser Beam Power, Energy and Temporal Characteristics	Withdrawn and replaced with newer version	155
K. Software			
1	ISO/IEC 12207:1995 Information Technology—Software Life Cycle Processes	Withdrawn	
3	IEEE/EIA 12207.0–1996 Industry Implementation of International Standard ISO/IEC 12207:1995(ISO/IEC 12207) Standard for Information Technology—Software Life Cycle Processes	Withdrawn	
5	IEEE 1074–1997 Standard for Developing a Software Project Life Cycle Process	Withdrawn	
6	IEEE 1012–2004 Standard for Software Verification and Validation	Withdrawn	
7	AAMI / ANSI SW68:2001 Medical Device Software—Software Life Cycle Processes	Withdrawn	
L. Sterility			
67	ASTM F1140–2005, Standard Test Methods for Internal Pressurization Failure Resistance of Unrestrained Packages for Medical Applications	Withdrawn and replaced with newer version	196
68	ASTM F1585:2000, Standard Guide for Integrity Testing of Porous Barrier Medical Packages	Withdrawn	
69	ASTM F1608:2004, Standard Test Method for Microbial Ranking of Porous Packaging Materials (Exposure Chamber Method)	Withdrawn and replaced with newer version	197
89	ASTM F2054–05, Standard Test Method for Burst Testing of Flexible Package Seals Using Internal Air Pressurization Within Restraining Plates	Withdrawn and replaced with newer version	198
121	ASTM D4169–05, Standard Practice for Performance Testing of Shipping Containers and Systems	Withdrawn and replaced with newer version	199
122	ASTM F88–2006, Standard Test Method for Seal Strength of Flexible Barrier Materials	Withdrawn and replaced with newer version	200

TABLE 2.—Continued

Old Item No.	Standard	Change	Replacement Item No.
<b>M. Tissue Engineering</b>			
1	ASTM F2064–00(2006): Standard Guide for Characterization and Testing of Alginates as Starting Materials Intended for use in Biomedical and Tissue-Engineered Medical Products Application	Withdrawn and replaced with newer version	8

**III. Listing of New Entries**

In table 3 of this document, FDA provides the listing of new entries and

consensus standards added as modifications to the list of recognized

standards under Recognition List Number: 017.

TABLE 3.

Item No.	Title of Standard	Reference No. & Date
<b>A. Anesthesia</b>		
71	Lung Ventilators for Medical use—Particular Requirements for Basic Safety and Essential Performance—Part 5: Gas-powered Emergency Resuscitators	ISO 10651–5:2006
<b>B. Cardiovascular/Neurology</b>		
59	Implants for surgery—Cardiac Pacemakers—Part 3: Low-profile Connectors (IS–1) for Implantable Pacemakers	ISO 5841–3:2000
<b>C. Dental/ENT</b>		
140	Dental Base Metal Casting Alloys—Part 2: Nickel-based Alloys	ISO 6871–2:1994/Amd 1:2005
141	Dental Base Metal Casting Alloys—Part 1: Cobalt-based Alloys	ISO 6871–1:1994
142	Dental Base Metal Casting Alloys—Part 1: Cobalt-based Alloys	ISO 6871–1:1994/Amd 1:2005
<b>D. General</b>		
36	Technical Information Report: Medical Devices—Guidance on the Selection of Standards in Support of Recognized Essential Principles of Safety and Performance of Medical Devices, Second Edition	ANSI/AAMI/ISO TIR 16142:2006
<b>E. General Hospital/General Plastic Surgery</b>		
170	Sterile hypodermic syringes for single use—Part 1: Syringes for Manual Use	ISO 7886–1:1993/ Corrigendum 1:1995
171	Sterile, Single-use Intravascular Catheters- Part 3: Central Venous Catheters	ISO 10555–3:1996/ Corrigendum 1:2002
173	Infusion Equipment for Medical Use—Part 2: Closures for Infusion Bottles	ISO 8536–2:2001/ Corrigendum 1:2003
174	Pen-injectors for Medical Use—Part 4: Requirements and Test Methods for Electronic and Electromechanical Pen-injectors	ISO 11608–4:2006
176	Standard Guide for Assessment of Medical Gloves	ASTM D7103–06
179	Needle-free Injectors for Medical Use—Requirements and Test Methods	ISO 21649:2006
180	Standard Specification for Surgical Gowns Intended for Use in Healthcare Facilities	ASTM F2407–06
182	Medical Electrical Equipment— Part 2–38: Particular Requirements for the Safety of Electrically Operated Hospital Beds	IEC 60601–2–38 1996/Amendment 1:1999
<b>F. In Vitro Diagnostic</b>		
128	Evaluation of Matrix Effects; Approved Guideline—Second Edition	CLSI EP14–A2 2005
129	Quality Control of Microbiological Transport Systems	CLSI M40–A 2003
<b>G. Materials</b>		
135	Standard Test Method for Burst Strength of Surgical Sealants	ASTM F2392–04
136	Standard Test Method for Wound Closure Strength of Tissue Adhesives and Sealants	ASTM F2458–05

TABLE 3.—Continued

Item No.	Title of Standard	Reference No. & Date
H. OB-GYN/Gastroenterology		
42	Medical electrical equipment—Part 2: Particular Requirements for the Safety of Endoscopic Equipment	IEC 60601–2–18 (1996) Amendment 1 2000
43	Rubber Condoms—Guidance on the Use of ISO 4074 in the Quality Management of Natural Rubber Latex Condoms	ISO 16038:2005
I. Ophthalmic		
43	Ophthalmic Implants—Intraocular lenses—Part 8: Fundamental Requirements	ISO 11979–8:2006
J. Radiology		
150	Information Technology—Digital Compression and Coding of Continuous-tone Still Images—Part 1: Requirements and Guidelines	IEC / ISO 10918–1:1994 Technical Corrigendum 1:2005
152	Medical Electrical Equipment—Part 2–1: Particular Requirements for the Safety of Electron Accelerators in the Range 1 MeV to 50 MeV	IEC 60601–2–1 (1998–06), Amendment 1 2002
154	Lasers and Laser-related Equipment—Determination of Laser-induced Damage Threshold of Optical Surfaces—Part 3: Assurance of Laser Power (energy) Handling Capabilities	ISO 11254–3:2006
156	Lasers and Laser-related Equipment—Test Methods for Laser Beam Parameters—Beam Positional Stability	ISO 11670:2003 Technical Corrigendum 1:2004
157	Optics and Optical Instruments—Lasers and Laser-related Equipment—Test Methods for Laser Beam Power (energy) Density Distribution	ISO 13694:2000 Technical Corrigendum 1:2005
158	Determination of Local Specific Absorption Rate (SAR) in Diagnostic Magnetic Resonance Imaging	NEMA MS 10–2006
159	Determination of Gradient-Induced Electric Fields In Diagnostic Magnetic Resonance Imaging	NEMA MS 11–2006
160	Quantification and Mapping of Geometric Distortion for Special Applications	NEMA MS 12–2006

#### IV. List of Recognized Standards

FDA maintains the agency's current list of FDA recognized consensus standards in a searchable database that may be accessed directly at FDA's Internet site at <http://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfStandards/search.cfm>. FDA will incorporate the modifications and minor revisions described in this notice into the database and, upon publication in the **Federal Register**, this recognition of consensus standards will be effective. FDA will announce additional modifications and minor revisions to the list of recognized consensus standards, as needed, in the **Federal Register** once a year, or more often, if necessary.

#### V. Recommendation of Standards for Recognition by FDA

Any person may recommend consensus standards as candidates for recognition under the new provision of section 514 of the act by submitting such recommendations, with reasons for the recommendation, to the contact person (See **FOR FURTHER INFORMATION**

**CONTACT**). To be properly considered, such recommendations should contain, at a minimum, the following information: (1) Title of the standard, (2) any reference number and date, (3) name and address of the national or international standards development organization, (4) a proposed list of devices for which a declaration of conformity to this standard should routinely apply, and (5) a brief identification of the testing or performance or other characteristics of the device(s) that would be addressed by a declaration of conformity.

#### VI. Electronic Access

You may obtain a copy of "Guidance on the Recognition and Use of Consensus Standards" by using the Internet. CDRH maintains a site on the Internet for easy access to information including text, graphics, and files that you may download to a personal computer with access to the Internet. Updated on a regular basis, the CDRH home page includes the guidance as well as the current list of recognized standards and other standards related

documents. After publication in the **Federal Register**, this notice announcing "Modifications to the List of Recognized Standards, Recognition List Number: 017" will be available on the CDRH home page. You may access the CDRH home page at <http://www.fda.gov/cdrh>.

You may access "Guidance on the Recognition and Use of Consensus Standards," and the searchable database for "FDA Recognized Consensus Standards" through the hyperlink at <http://www.fda.gov/cdrh/stdsprog.html>.

This **Federal Register** document on modifications in FDA's recognition of consensus standards is available at <http://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfTopic/cdrhnew.cfm>.

#### VII. Submission of Comments and Effective Date

Interested persons may submit to the contact person (see **FOR FURTHER INFORMATION CONTACT**) written or electronic comments regarding this document. Two copies of any mailed comments are to be submitted, except that individuals may submit one paper copy. Comments are to be identified

with the docket number found in brackets in the heading of this document. FDA will consider any comments received in determining whether to amend the current listing of modifications to the list of recognized standards, Recognition List Number: 017. These modifications to the list or recognized standards are effective upon publication of this notice in the **Federal Register**.

Dated: May 10, 2007.

**Linda S. Kahan,**

*Deputy Director, Center for Devices and Radiological Health.*

[FR Doc. E7-9718 Filed 5-18-07; 8:45 am]

**BILLING CODE 4160-01-S**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### Government-Owned Inventions; Availability for Licensing

**AGENCY:** National Institutes of Health, Public Health Service, HHS.

**ACTION:** Notice.

**SUMMARY:** The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

**ADDRESSES:** Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852-3804; telephone: 301/496-7057; fax: 301/402-0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

#### A Method With Increased Yield for Production of Polysaccharide-Protein Conjugate Vaccines Using Hydrazide Chemistry

**Description of Technology:** Current methods for synthesis and manufacturing of polysaccharide-protein conjugate vaccines employ conjugation reactions with low efficiency (about twenty percent). This means that up to eighty percent of the added activated polysaccharide (PS) is lost. In addition, inclusion of a

chromatographic process for purification of the conjugates from unconjugated PS is required.

The present invention utilizes the characteristic chemical property of hydrazide groups on one reactant to react with aldehyde groups or cyanate esters on the other reactant with an improved conjugate yield of at least sixty percent. With this conjugation efficiency the leftover unconjugated protein and polysaccharide would not need to be removed and thus the purification process of the conjugate product can be limited to diafiltration to remove the by-products of small molecules. The new conjugation reaction can be carried out within one or two days with reactant concentrations between 1 and 25 mg/mL at PS/protein ratios from 1:2 to 3:1, at temperatures between 4 and 40 degrees Centigrade, and in a pH range of 5.5 to 7.4, optimal conditions varying from PS to PS.

**Application:** Cost effective and efficient manufacturing of conjugate vaccines.

**Inventors:** Che-Hung Robert Lee and Carl E. Frasch (CBER/FDA).

**Patent Status:** U.S. Patent Application No. 10/566,899 filed 01 Feb 2006, claiming priority to 06 Aug 2003 (HHS Reference No. E-301-2003/0-US-10); U.S. Patent Application No. 10/566,898 filed 01 Feb 2006, claiming priority to 06 Aug 2003 (HHS Reference No. E-301-2003/1-US-02); International rights available.

**Licensing Status:** Available for non-exclusive licensing.

**Licensing Contact:** Peter A. Soukas, J.D.; 301/435-4646; [soukasp@mail.nih.gov](mailto:soukasp@mail.nih.gov).

#### A Method of Immunizing Humans Against Salmonella Typhi Using a Vi-rEPA Conjugate Vaccine

**Description of Technology:** This invention is a method of immunization against typhoid fever using a conjugate vaccine comprising the capsular polysaccharide of *Salmonella typhi*, Vi, conjugated through an adipic dihydrazide linker to nontoxic recombinant exoprotein A (rEPA) from *Pseudomonas aeruginosa*. The three licensed vaccines against typhoid fever, attenuated *S. typhi* Ty21a, killed whole cell vaccines and Vi polysaccharide, have limited efficacy, in particular for children under 5 years of age, which make an improved vaccine desirable.

It is generally recognized that an effective vaccine against *Salmonella typhi* is one that increases serum anti-Vi IgG eight-fold six weeks after immunization. The conjugate vaccine of the invention increases anti-Vi IgG, 48-

fold, 252-fold and 400-fold in adults, in 5-14 years-old and 2-4 years-old children, respectively. Thus this is a highly effective vaccine suitable for children and should find utility in endemic regions and as a traveler's vaccine. The route of administration can also be combined with routine immunization. In 2-5 years old, the protection against typhoid fever is 90% for 4 years. In school age children and in adults the protection could mount to completer protection according to the immunogenicity data.

**Application:** Immunization against *Salmonella typhi* for long term prevention of typhoid fever in all ages.

**Developmental Status:** Conjugates have been synthesized and clinical studies have been performed. The synthesis of the conjugates is described by Kossaczka et al. in *Infect Immun.* 1997 June;65(7):2088-2093. Phase III clinical studies are described by Mai et al. in *N Engl J Med.* 2003 October 2; 349(14):1390-1391. Dosage studies are described by Canh et al. in *Infect Immun.* 2004 Nov;72(11):6586-6588.

A safety and immunogenicity study in infants are underway. The aim is to administer the conjugate vaccine with routine infant immunization. Preliminary results show the vaccine is safe in 2 months old infants.

**Inventors:** Zuzana Kossaczka, Shousun C. Szu, and John B. Robbins (NICHD).

**Patent Status:** U.S. Patent 6,797,275 issued 28 Sep 2004 (HHS Reference No. E-020-1999/0-US-02); U.S. Patent Application No. 10/866,343 filed 10 Jun 2004 (HHS Reference No. E-020-1999/0-US-03); U.S. Patent Application No. 11/726,304 filed 20 Mar 2007 (HHS Reference No. E-020-1999/0-US-04).

**Licensing Status:** Available for non-exclusive licensing.

**Licensing Contact:** Peter A. Soukas, J.D.; 301/435-4646; [soukasp@mail.nih.gov](mailto:soukasp@mail.nih.gov).

**Collaborative Research Opportunity:** The National Institute of Child Health and Human Development, Laboratory of Developmental and Molecular Immunity, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize A Method of Immunizing Humans Against *Salmonella Typhi* Using a Vi-rEPA Conjugate Vaccine. Please contact John D. Hewes, Ph.D., at 301-435-3121 or [hewesj@mail.nih.gov](mailto:hewesj@mail.nih.gov) for more information.

### Vaccine Against *Escherichia Coli* 0157 Infection, Composed of Detoxified LPS Conjugated to Proteins

**Description of Technology:** This invention is a conjugate vaccine to prevent infection by *E. coli* 0157:H7, particularly in young children under 5 years of age. *E. coli* 0157:H7 is an emerging human pathogen which causes a spectrum of illnesses with high morbidity and mortality, ranging from diarrhea to hemorrhagic colitis and hemolytic-uremic syndrome (HUS). Infection with *E. coli* 0157:H7 occurs as a result of consumption of water, vegetables, fruits or meat contaminated by feces from infected animals, such as cattle. The most recent large outbreak in the U.S. was from contaminated bag spinach. The conjugate is composed of the O-specific polysaccharide isolated from *E. coli* 0157, or other Shiga-toxin producing bacteria, conjugated to carrier proteins, such as non-toxic *P. aeruginosa* exotoxin A or Shiga toxin 1. A Phase I clinical trial, involving adult humans, showed the vaccine is safe and highly immunogenic. Adults, after one injection containing 25 µg of antigen, responded with high titers of bactericidal antibodies. Similarly in a phase II study, fifty 2-to-5- years old children in U.S. were injected with the conjugate vaccines. There were only mild local adverse reactions. More than 90% of the children responded with greater than 10 fold rise of *E. coli* O157 antibodies of bactericidal ability. Thus the conjugates of the invention are promising vaccines, especially for children and the elderly, who are most likely to suffer serious consequences from infection.

**Application:** Prevention of *E. coli* O157 infection.

**Development Status:** Clinical studies have been performed and are described in Konadu *et al.*, *J Infect Dis.* 1998 Feb; 177(2):383–387 and Ahmed *et al.*, *J Infect Dis.* 2006 Feb; 193(2):515–526.

**Inventors:** Shousun C. Szu, Edward Konadu, and John B. Robbins (NICHD).

**Patent Status:** U.S. Patent 6,858,211 issued 22 Feb 2005 (HHS Reference No. E-158-1998/0-US-06); U.S. Patent Application No. 10/987,428 filed 12 Nov 2004 (HHS Reference No. E-158-1998/0-US-07); U.S. Patent Application No. 11/015,436 filed 16 Dec 2004 (HHS Reference No. E-158-1998/0-US-08).

**Licensing Status:** Available for non-exclusive or exclusive licensing.

**Licensing Contact:** Peter A. Soukas, J.D.; 301/435-4646; soukasp@mail.nih.gov.

**Collaborative Research Opportunity:** The National Institute of Child Health and Human Development, Laboratory of

Developmental and Molecular Immunity, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize Vaccine for *E. coli* O157 for Children and Adults. Please contact John D. Hewes, Ph.D., at 301-435-3121 or hewesj@mail.nih.gov for more information.

Dated: May 11, 2007.

**Steven M. Ferguson,**

*Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.*

[FR Doc. E7-9656 Filed 5-18-07; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HEALTH AND HUMAN

### National Institutes of Health

#### National Cancer Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Cancer Advisory Board, June 14, 2007, 2 p.m. to June 15, 2007, 12 p.m., National Institutes of Health, Building 31, 31 Center Drive, Bethesda, MD 20892, which was published in the **Federal Register** on May 2, 2007, 72 FR 24319.

The notice is being amended to change the open session start and end times on June 14, 2007 to 1:15 p.m.—4:20 p.m. and the end time on June 15, 2007 to 11:45 a.m. The meeting is partially Closed to the public.

Dated: May 14, 2007.

**Jennifer Spaeth,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 07-2495 Filed 5-18-07; 8:45 am]

**BILLING CODE 4140-01-M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provision set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and

personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

**Name of Committee:** Heart, Lung, and Blood Initial Review Group; Clinical Trials Review Committee.

**Date:** June 25, 2007.

**Time:** 8 a.m. to 5 p.m.

**Agenda:** To review and evaluate grant applications.

**Place:** Intercontinental Harbor Court, 550 Light Street, Baltimore, MD 21202.

**Contact Person:** Patricia A Haggerty, PhD, Section Chief, Clinical Studies and Training Scientific Review Group, Review Branch, Division of Extramural Research Activities, National Heart, Lung, and Blood Institute, NIH, 6701 Rockledge Drive, Room 7194, MSC 7924, Bethesda, MD 20892, 301/435-0288, haggertp@nhlbi.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: May 14, 2007.

**Jennifer Spaeth,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 07-2488 Filed 5-18-07; 8:45 am]

**BILLING CODE 4140-01-M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Heart, Lung and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby give of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

**Name of Committee:** National Heart, Lung, and Blood Institute Special Emphasis Panel; Mentored Scientist Award (K99).

**Date:** June 28-29, 2007.

**Time:** June 28, 2007, 12 p.m. to 10 p.m.

**Agenda:** To review and evaluate grant applications.

**Place:** Washington Plaza, 10 Thomas Circle NW., Washington, DC 20005.

*Time:* June 29, 2007, 8 a.m. to 5 p.m.  
*Agenda:* To review and evaluate grant applications.

*Place:* Washington Plaza, 10 Thomas Circle NW., Washington, DC 20005.

*Contact Person:* William J Johnson, PhD, Scientific Review Administrator, Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7178, Bethesda, MD 20892-7924, 301-435-0725, [johnsonw@nhlbi.nih.gov](mailto:johnsonw@nhlbi.nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center For Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: May 14, 2007.

**Jennifer Spaeth,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 07-2489 Filed 5-18-07; 8:45 am]

**BILLING CODE 4140-01-M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute on Drug Abuse Special Emphasis Panel; Research on Drug Marketing and Social Dimensions of Street Drugs.

*Date:* May 31, 2007.

*Time:* 8:30 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Jurys Washington Hotel, 1500 New Hampshire Avenue, NW., Washington, DC 200036.

*Contact Person:* Gerald L. McLaughlin, PhD, Scientific Review Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 220, MSC 8401, 6101 Executive Blvd., Bethesda, MD 20892-8401, 301-402-6626, [gm145@nih.gov](mailto:gm145@nih.gov).

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* National Institute on Drug Abuse Special Emphasis Panel; Extinction Learning and Pharmacotherapies of Drug Addiction/Extinction and Pharmacotherapies.

*Date:* July 2, 2007.

*Time:* 8:30 a.m. to 8:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* The Fairmont Washington, DC, 2401 M Street, NW., Washington, DC 20037.

*Contact Person:* Rita Liu, PhD, Associate Director, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 212, MSC 8401, 6101 Executive Boulevard, Bethesda, MD 20892-8401, 301-435-1388, [rlu@nida.nih.gov](mailto:rlu@nida.nih.gov).

*Name of Committee:* National Institute on Drug Abuse Special Emphasis Panel; Centers Review Committee.

*Date:* July 16, 2007.

*Time:* 8 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Ritz-Carlton Hotel at Pentagon City, 1250 South Hayes Street, Arlington, VA 22202.

*Contact Person:* Rita Liu, PhD, Associate Director, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 212, MSC 8401, 6101 Executive Boulevard, Bethesda, MD 20892-8401, 301-435-1388, [rlu@nida.nih.gov](mailto:rlu@nida.nih.gov).

*Name of Committee:* National Institute on Drug Abuse Special Emphasis Panel; Program Projects.

*Date:* July 17, 2007.

*Time:* 8 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Ritz-Carlton Hotel at Pentagon City, 1250 South Hayes Street, Arlington, VA 22202.

*Contact Person:* Rita Liu, PhD, Associate Director, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 212, MSC 8401, 6101 Executive Boulevard, Bethesda, MD 20892-8401, 301-435-1388, [rlu@nida.nih.gov](mailto:rlu@nida.nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: May 14, 2007.

**Jennifer Spaeth,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 07-2487 Filed 5-18-07; 8:45 am]

**BILLING CODE 4140-01-M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute on Aging; Notice of Closed Meetings.

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Aging Special Emphasis Panel, Koo P01 Teleconference.

*Date:* June 7, 2007.

*Time:* 1 p.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Louise L Hsu, PhD, Health Scientist Administrator, Scientific Review Office, National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892 (301) 496-7705, [hsul@exmur.nia.nih.gov](mailto:hsul@exmur.nia.nih.gov).

*Name of Committee:* National Institute of Aging Special Emphasis Panel, AVV-NGF TRIAL.

*Date:* June 7, 2007.

*Time:* 5 p.m. to 7 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, 2C212, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Ramesh Vemuri, PhD, Scientific Review Office, National Institute on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Suite 2C-212, (301) 402-7700, [rv23r@nia.nih.gov](mailto:rv23r@nia.nih.gov).

*Name of Committee:* National Institute of Aging Special Emphasis Panel, MOR P01-A2 Review.

*Date:* June 11, 2007.

*Time:* 11:30 a.m. to 2:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Jon E. Rolf, PhD, Scientific Review Administrator, Scientific Review Office, National Institute on Aging, Bethesda, MD 20814, (301) 402-7703, [rolfj@nia.nih.gov](mailto:rolfj@nia.nih.gov).

*Name of Committee:* National Institute of Aging Special Emphasis Panel, U01 Drug Study.

*Date:* June 18, 2007.

*Time:* 1 p.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Louise L. Hsu, PhD, Health Scientist Administrator, Scientific Review



Office, National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496-7705, [hsul@exmur.nia.nih.gov](mailto:hsul@exmur.nia.nih.gov).

*Name of Committee:* National Institute on Aging Special Emphasis Panel, AD Clinical Trials.

*Date:* June 22, 2007.

*Time:* 1 p.m. to 4 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, 2C212, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Ramesh Vemuri, PhD, Scientific Review Office, National Institute on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Suite 2C-212, Bethesda, MD 20892, 301-402-7700, [rv23r@nih.gov](mailto:rv23r@nih.gov).

*Name of Committee:* National Institute on Aging Special Emphasis Panel, EXERCISE AND DISABILITY.

*Date:* June 25, 2007.

*Time:* 12 p.m. to 3 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, 2C212, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Ramesh Vemuri, PhD, Scientific Review Office, National Institute on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Suite 2C-212, Bethesda, MD 20892, 301-402-7700, [rv23r@nih.gov](mailto:rv23r@nih.gov) (Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: May 14, 2007.

**Jennifer Spaeth**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 07-2490 Filed 5-18-07; 8:45 am]

**BILLING CODE 4140-01-M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute of Neurological Disorders and Stroke; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which

would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Neurological Disorders and Stroke Special Emphasis Panel, NSDK Member Conflict SEP.

*Date:* June 29, 2007.

*Time:* 8 a.m. to 12:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* The Watergate Hotel, 2650 Virginia Avenue, NW., Washington, DC 20037.

*Contact Person:* Alan L. Willard, PhD, Scientific Review Administrator, Scientific Review Branch NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892-9529, (301) 496-5390, [willarda@ninds.nih.gov](mailto:willarda@ninds.nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: May 14, 2007.

**Jennifer Spaeth**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 07-2492 Filed 5-18-07; 8:45 am]

**BILLING CODE 4140-01-M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal property.

*Name of Committee:* National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Efficacy of Setraline as a Treatment for Cholestatic Pruritus.

*Date:* June 29, 2007.

*Time:* 2:30 p.m. to 4 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Paul A. Rushing, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 747, 6707 Democracy Boulevard, Bethesda, MD 20892-5452, (301)-594-8895, [rushingp@extra.niddk.nih.gov](mailto:rushingp@extra.niddk.nih.gov).

*Name of Committee:* National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, The NIDDK Digestive Disease Development Centers Review.

*Date:* July 13, 2007.

*Time:* 8 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Marriott Bethesda North Hotel & Conference Center, 5701 Marinelli Road, North Bethesda, MD 20852.

*Contact Person:* Xiaodu Guo, MD, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 910, 6707 Democracy Boulevard, Bethesda, MD 20892-5452, (301)-594-4719, [guox@extra.niddk.nih.gov](mailto:guox@extra.niddk.nih.gov).

*Name of Committee:* National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, CRISP and AASK Ancillary Studies.

*Date:* July 13, 2007.

*Time:* 2 p.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20852, (Telephone Conference Call).

*Contact Person:* Barbara A. Woynarowska, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 754, 6707 Democracy Boulevard, Bethesda, MD 20892-5452, (301)-402-7172, [woynarowskab@niddk.nih.gov](mailto:woynarowskab@niddk.nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: May 14, 2007.

**Jennifer Spaeth**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 07-2493 Filed 5-18-07; 8:45 am]

**BILLING CODE 4140-01-M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute of Child Health and Human Development; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Developmental Biology Subcommittee, June 7, 2007, 8:30 a.m. to June 7, 2007, 5 p.m., Hotel Washington, Pennsylvania Avenue at 15th Street, NW., Washington, DC

20004, which was published in the **Federal Register** on May 9, 2007, 72 FR 26409.

The meeting will now be held at the Hyatt Regency in Crystal City, 2799 Jefferson Davis Highway, Arlington, Virginia, from 8:30 a.m. to 5 p.m. The meeting is closed to the public.

Dated: May 14, 2007.

**Jennifer Spaeth,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 07-2494 Filed 5-18-07; 8:45 am]

**BILLING CODE 4140-01-M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Mental Health Special Emphasis Panel, NIMH Centers for Pediatric Mental Health.

*Date:* June 21, 2007.

*Time:* 8 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* The Washington Plaza, 10 Thomas Circle NW., Washington, DC 20005.

*Contact Person:* Bettina D. Osborn, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, National Institutes of Health, 6001 Executive Blvd., Room 6154, MSC 9609, Rockville, MD 20892-9609, 301-443-1178, [acunab@mail.nih.gov](mailto:acunab@mail.nih.gov).

*Name of Committee:* National Institute of Mental Health Special Emphasis Panel, IDSC ADHD.

*Date:* June 21, 2007.

*Time:* 1:45 p.m. to 4:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

*Contact Person:* Peter J. Sheridan, PhD, Scientific Review Administrator, Division of

Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6142, MSC 9606, Bethesda, MD 20892, 301-443-1513, [psherida@mail.nih.gov](mailto:psherida@mail.nih.gov).

*Name of Committee:* National Institute of Mental Health Special Emphasis Panel, Eating Disorders.

*Date:* June 22, 2007.

*Time:* 11:30 a.m. to 3:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

*Contact Person:* David I. Sommers, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, National Institutes of Health, 6001 Executive Blvd., Room 6154, MSC 9609, Bethesda, MD 20892-9606, Bethesda, MD 20892-9606, 301-443-7861, [dsommers@mail.nih.gov](mailto:dsommers@mail.nih.gov).

*Name of Committee:* National Institute of Mental Health Special Emphasis Panel, IDSC Autism & Repetitive Behavior.

*Date:* July 13, 2007.

*Time:* 8 a.m. to 6 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* The Watergate, 2650 Virginia Avenue, NW., Washington, DC 20037.

*Contact Person:* Peter J. Sheridan, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6142, MSC 9606, Bethesda, MD 20892, 301-443-1513, [psherida@mail.nih.gov](mailto:psherida@mail.nih.gov).

*Name of Committee:* National Institute of Mental Health Special Emphasis Panel, Children and Their Families Conflict of Interest Panel.

*Date:* July 20, 2007.

*Time:* 1 p.m. to 4 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

*Contact Person:* Serena P. Chu, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6154, MSC 9609, Rockville, MD 20892, 301-443-0004 [sechu@mail.nih.gov](mailto:sechu@mail.nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: May 11, 2007

**Jennifer Spaeth,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 07-2496 Filed 5-18-07; 8:45 am]

**BILLING CODE 4140-01-M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Skeletal Biology Structure and Regeneration Study Section, June 3, 2007, 8 a.m. to June 5, 2007, 5 p.m. The Watergate, 2650 Virginia Avenue, NW., Washington, DC 20037 which was published in the **Federal Register** on May 9, 2007, 72 FR 26411-26412.

The meeting will be held June 4, 2007, 8 a.m. to June 5, 2007, 5 p.m. The meeting location remains the same. The meeting is closed to the public.

Dated: May 14, 2007.

**Jennifer Spaeth,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 07-2485 Filed 5-18-07; 8:45 am]

**BILLING CODE 4140-01-M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, June 7, 2007, 8 a.m. to June 7, 2007, 5 p.m. DoubleTree Hotel-Washington, DC, 1515 Rhode Island Avenue, NW., Washington, DC 20005 which was published in the **Federal Register** on May 9, 2007, 72 FR 26411-26412.

The meeting will be held June 7, 2007, 8 a.m. to June 8, 2007, 5 p.m. The meeting location remains the same. The meeting is closed to the public.

Dated: May 14, 2007.

**Jennifer Spaeth,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 07-2486 Filed 5-18-07; 8:45 am]

**BILLING CODE 4140-01-M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice

is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group, Integrative Nutrition and Metabolic Processes Study Section.

*Date:* June 11, 2007.

*Time:* 8 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* DoubleTree Hotel Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

*Contact Person:* Sooja K. Kim, PhD, RD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6182, MSC 7892, Bethesda, MD 20892, (301) 435-1780, [kims@csr.nih.gov](mailto:kims@csr.nih.gov).

*Name of Committee:* Center for Scientific Review Special Emphasis Panel Fellowships: Pathology and Pathobiology of Organ Systems.

*Date:* June 12, 2007.

*Time:* 8 a.m. to 6:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* The Watergate Hotel, 2650 Virginia Avenue, NW., Washington, DC 20037.

*Contact Person:* Abdelouahab Altouche, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2183, MSC 7818, Bethesda, MD 20892, 301-435-2365, [abdelouahaba@csr.nih.gov](mailto:abdelouahaba@csr.nih.gov).

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, Bioengineering Research Applications-Respiratory.

*Date:* June 12, 2007.

*Time:* 2:00 p.m. to 4 p.m.

*Agenda:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Bonnie L. Burgess-Beusse, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2191C, MSC 7818, Bethesda, MD 20892, 301-435-1783, [beusseb@mail.nih.gov](mailto:beusseb@mail.nih.gov).

*Name of Committee:* Oncological Sciences Integrated Review Group, Cancer Immunopathology and Immunotherapy Study Section.

*Date:* June 14-15, 2007.

*Time:* 8 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* The Madison Loews Hotel, 1177 15th Street, NW., Washington, DC 20005.

*Contact Person:* Steven B. Scholnick, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6152,

MSC 7804, Bethesda, MD 20892, 301-435-1719, [scholnis@csr.nih.gov](mailto:scholnis@csr.nih.gov).

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, Bioengineering Research Partnership Grants.

*Date:* June 19, 2007.

*Time:* 9 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

*Contact Person:* Joseph G. Rudolph, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5186, MSC 7844, Bethesda, MD 20892, 301-435-2212, [josephru@csr.nih.gov](mailto:josephru@csr.nih.gov).

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, Applications in Child Psychopathology.

*Date:* June 19, 2007.

*Time:* 1 p.m. to 1:30 pm.

*Agenda:* To review and evaluate grant applications.

*Place:* The Fairmont Washington, DC, 2401 M Street, NW., Washington, DC 20037.

*Contact Person:* Maribeth Champoux, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3170, MSC 7848, Bethesda, MD 20892, 301-594-3163, [champoum@csr.nih.gov](mailto:champoum@csr.nih.gov).

*Name of Committee:* Renal and Urological Studies Integrated Review Group, Pathobiology of Kidney Disease Study Section.

*Date:* June 21-22, 2007.

*Time:* 8:30 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* The Watergate, 2650 Virginia Avenue, NW., Washington, DC 20037.

*Contact Person:* Krystyna E. Rys-Sikora, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4016J, MSC 7814, Bethesda, MD 20892, 301-451-1325, [ryssokok@csr.nih.gov](mailto:ryssokok@csr.nih.gov).

*Name of Committee:* Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group, Cellular, Molecular and Integrative Reproduction Study Section.

*Date:* June 25, 2007.

*Time:* 8 a.m. to 6:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Doubletree Hotel Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

*Contact Person:* Syed M. Amir, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6172, MSC 7892, Bethesda, MD 20892, (301) 435-1043, [amirs@csr.nih.gov](mailto:amirs@csr.nih.gov).

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, Cardiovascular Devices.

*Date:* June 25, 2007.

*Time:* 8 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Georgetown Suites, 1000 29th Street, NW., Washington, DC 20007.

*Contact Person:* Roberto J. Matus, MD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108, MSC 7854, Bethesda, MD 20892, 301-435-2204, [matusr@csr.nih.gov](mailto:matusr@csr.nih.gov).

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, Development Methods of In Vivo Imaging and Bioengineering Research.

*Date:* June 25, 2007.

*Time:* 8 a.m. to 6 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Bethesda Marriott Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

*Contact Person:* Behrouz Shabestari, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5106, MSC 7854, Bethesda, MD 20892, (301) 435-2409, [shabestb@csr.nih.gov](mailto:shabestb@csr.nih.gov).

*Name of Committee:* Biobehavioral and Behavioral Processes Integrated Review Group, Biobehavioral Mechanisms of Emotion, Stress and Health Study Section.

*Date:* June 25-26, 2007.

*Time:* 8:30 a.m. to 6 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* The River Inn, 924 25th Street, NW., Washington, DC 20037.

*Contact Person:* Maribeth Champoux, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3182, MSC 7759, Bethesda, MD 20892, 301 594-3163, [champoum@csr.nih.gov](mailto:champoum@csr.nih.gov).

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, Drug and Discovery and Development Special Emphasis Panel.

*Date:* June 25-26, 2007.

*Time:* 8:30 a.m. to 4 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* George Washington University Inn, 824 New Hampshire Ave., NW., Washington, DC 20037.

*Contact Person:* Sergei Ruvinov, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4158, MSC 7806, Bethesda, MD 20892, 301-435-1180, [ruvinser@nih.gov](mailto:ruvinser@nih.gov).

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, Research on Ethical Issues in Human Studies.

*Date:* June 25, 2007.

*Time:* 9 a.m. to 4 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* The Watergate Hotel, 2650 Virginia Avenue, NW., Washington, DC 20037.

*Contact Person:* Steven H. Krosnick, MD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3158, MSC 7770, Bethesda, MD 20892, (301) 435-1712, [krosnics@csr.nih.gov](mailto:krosnics@csr.nih.gov).

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, Member Conflicts: CIGP.

*Date:* June 25, 2007.

*Time:* 11 a.m. to 1:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Patricia Greenwel, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2174, MSC 7818, Bethesda, MD 20892, 301-435-1169, [greenwep@csr.nih.gov](mailto:greenwep@csr.nih.gov).

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, PAR 06-293—Quick Trial on Imaging and Image-guided Intervention.

*Date:* June 25, 2007.

*Time:* 1 p.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

*Contact Person:* Guo Feng Xu, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5122, MSC 7854, Bethesda, MD 20892, 301-435-1032, [xuguofen@csr.nih.gov](mailto:xuguofen@csr.nih.gov).

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, S10 Flow Cytometry.

*Date:* June 26–27, 2007.

*Time:* 8 a.m. to 5:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

*Contact Person:* Alexandra M. Ainsztein, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5144, MSC 7840, Bethesda, MD 20892, 301-451-3848, [ainsztea@csr.nih.gov](mailto:ainsztea@csr.nih.gov).

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, MEDI/BMIT Member Conflict Meeting.

*Date:* June 26, 2007.

*Time:* 10 a.m. to 1 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Weihua Luo, MD, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5114, MSC 7854, Bethesda, MD 20892, (301) 435-1170, [luow@csr.nih.gov](mailto:luow@csr.nih.gov).

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, NSAA Member Conflict SEP.

*Date:* June 26, 2007.

*Time:* 12 p.m. to 1:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Melinda Tinkle, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3141,

MSC 7770, Bethesda, MD 20892, (301) 594-6594, [tinklem@csr.nih.gov](mailto:tinklem@csr.nih.gov).

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, Member Conflicts of Biological Chemistry and Macromolecular Biophysics.

*Date:* June 27–28, 2007.

*Time:* 8 a.m. to 4 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

*Contact Person:* Donald L. Schneider, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4172, MSC 7806, Bethesda, MD 20892, (301) 435-1727, [schneidd@csr.nih.gov](mailto:schneidd@csr.nih.gov).

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, Shared Crystallographer Instruments.

*Date:* June 27–28, 2007.

*Time:* 8 a.m. to 4 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

*Contact Person:* David R. Jollie, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5158, MSC 7806, Bethesda, MD 20892, (301) 435-1722, [jollieda@csr.nih.gov](mailto:jollieda@csr.nih.gov).

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, LCMI Member Conflict Applications.

*Date:* June 27, 2007.

*Time:* 1 p.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Ghenima Dirami, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2159, MSC 7818, Bethesda, MD 20892, (301) 594-1321, [diramig@csr.nih.gov](mailto:diramig@csr.nih.gov).

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, Hematopoiesis Mechanisms.

*Date:* June 27, 2007.

*Time:* 3 p.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Chhanda L. Ganguly, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4118, MSC 7802, Bethesda, MD 20892, (301) 435-1739, [gangulyc@csr.nih.gov](mailto:gangulyc@csr.nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 14, 2007.

**Jennifer Spaeth,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 07–2497 Filed 5–18–07; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### Receipt of Applications for Permit

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of receipt of applications for permit.

**SUMMARY:** The public is invited to comment on the following applications to conduct certain activities with endangered species or marine mammals.

**DATES:** Written data, comments or requests must be received by June 20, 2007.

**ADDRESSES:** Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358–2281.

**FOR FURTHER INFORMATION CONTACT:** Division of Management Authority, telephone 703/358–2104.

#### SUPPLEMENTARY INFORMATION:

##### Endangered Species

The public is invited to comment on the following applications for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address above).

*Applicant:* James B. Kelly, Brenham, TX, PRT–151122.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

**Marine Mammals**

The public is invited to comment on the following applications for a permit to conduct certain activities with marine mammals. The applications were submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the regulations governing marine mammals (50 CFR Part 18). Written data, comments, or requests for copies of the complete applications or requests for a public hearing on these applications should be submitted to the Director (address above). Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

*Applicant:* Jeff M. Jarman, Mitchell, SD, PRT-151878.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Southern Beaufort Sea polar bear population in Canada for personal, noncommercial use.

*Applicant:* Gregory S. Oliver, Plano, TX, PRT-152218.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population in Canada for personal, noncommercial use.

Dated: April 20, 2007.

**Lisa J. Lierheimer,**

*Senior Permit Biologist, Branch of Permits, Division of Management Authority.*

[FR Doc. E7-9670 Filed 5-18-07; 8:45 am]

**BILLING CODE 4310-55-P**

**DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****Issuance of Permits**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of issuance of permits for endangered species.

**SUMMARY:** The following permits were issued.

**ADDRESSES:** Documents and other information submitted with these

applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358-2281.

**FOR FURTHER INFORMATION CONTACT:**

Division of Management Authority, telephone 703/358-2104.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that on the dates below, as authorized by the provisions of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), the Fish and Wildlife Service issued the requested permits subject to certain conditions set forth therein. For each permit for an endangered species, the Service found that (1) The application was filed in good faith, (2) the granted permit would not operate to the disadvantage of the endangered species, and (3) the granted permit would be consistent with the purposes and policy set forth in Section 2 of the Endangered Species Act of 1973, as amended.

**ENDANGERED SPECIES**

Permit No.	Applicant	Receipt of application <b>Federal Register</b> notice	Permit issuance date
012984 .....	Randy Miller .....	72 FR 2540; January 19, 2007 .....	February 22, 2007.
063077 .....	Randy Miller .....	72 FR 2540; January 19, 2007 .....	February 22, 2007.
065144 .....	Tarzan Zerbini .....	72 FR 8195; February 23, 2007 .....	March 27, 2007.
065145 .....	Tarzan Zerbini .....	72 FR 8195; February 23, 2007 .....	March 27, 2007.
065146 .....	Tarzan Zerbini .....	72 FR 8195; February 23, 2007 .....	March 27, 2007.
065149 .....	Tarzan Zerbini .....	72 FR 8195; February 23, 2007 .....	March 27, 2007.
088344 .....	Tarzan Zerbini .....	72 FR 8195; February 23, 2007 .....	March 27, 2007.
128056 .....	Leslie I. Barnhart .....	71 FR 76685; December 21, 2006 .....	January 31, 2007.
130454 .....	Cincinnati Zoo & Botanical Garden.	71 FR 60561; October 13, 2006 .....	January 23, 2007.
132400 .....	University of Illinois, Dept. of Biological Sciences.	72 FR 8194; February 23, 2007 .....	April 16, 2007.
135623 .....	Detroit Zoological Society .....	72 FR 8006; February 22, 2007 .....	March 28, 2007.
135919 .....	Sierra Endangered Cat Haven ...	72 FR 9770; March 5, 2007 .....	April 4, 2007.
137719 .....	Wild Things Unlimited .....	72 FR 2538; January 19, 2007 .....	February 21, 2007.
140973 .....	Zoological Society of San Diego	71 FR 76686; December 21, 2006 .....	February 13, 2007.
144846 .....	Mark D. Crowther .....	72 FR 9770; March 5, 2007 .....	April 11, 2007.
835802 .....	Randy Miller .....	72 FR 2540; January 19, 2007 .....	February 22, 2007.

Dated: April 20, 2007.

**Lisa J. Lierheimer,**

*Senior Permit Biologist, Branch of Permits, Division of Management Authority.*

[FR Doc. E7-9669 Filed 5-18-07; 8:45 am]

**BILLING CODE 4310-55-P**

**DEPARTMENT OF THE INTERIOR****Bureau of Land Management**

**[WY-030-1310-DB]**

**Notice of Availability of the Record of Decision for the Final Environmental Impact Statement, Atlantic Rim Natural Gas Field Development Project, Carbon County, WY**

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of Availability (NOA) of the Record of Decision (ROD) for the

Final Environmental Impact Statement for the Atlantic Rim Natural Gas Field Development Project, Carbon County, Wyoming.

**SUMMARY:** In accordance with the National Environmental Policy Act of 1969, the Bureau of Land Management (BLM) announces the availability of the ROD for the Atlantic Rim Natural Gas Field Development Project, Carbon County, Wyoming.

**ADDRESSES:** The ROD will be available electronically on the following Web site: <http://www.blm.gov/wy/st/en/info/>

*NEPA/rfodocs/atlantic\_rim.html*. Copies of the ROD are also available for public inspection at the following BLM office locations:

- Bureau of Land Management, Wyoming State Office, 5353 Yellowstone Road, Cheyenne, Wyoming 82003.

- Bureau of Land Management, Rawlins Field Office, 1300 N. Third Street, Rawlins, Wyoming 82301.

**FOR FURTHER INFORMATION CONTACT:**

David Simons, Project Leader, Rawlins Field Office, P.O. Box 2407, Rawlins, Wyoming 82301, telephone (307) 328-4328.

**SUPPLEMENTARY INFORMATION:** This ROD addresses the Atlantic Rim Natural Gas Field Development Project, located in Carbon County, Wyoming. The Atlantic Rim project encompasses approximately 270,080 acres, of which 173,672 acres are Federal surface (179,438 acres Federal minerals) administered by the BLM Rawlins Field Office; 14,060 acres are State of Wyoming lands (12,384 acres State of Wyoming minerals); and 82,348 acres are private surface (78,258 acres private minerals). Copies of the ROD have been sent to affected Federal, State, and local government agencies and interested parties.

January 31, 2007.

**Donald A. Simpson,**

*Associate State Director.*

[FR Doc. E7-9685 Filed 5-18-07; 8:45 am]

**BILLING CODE 4310-22-P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[WY-957-07-9820-BJ-WY03]

### Notice of Filing of Plats of Survey, Wyoming

**AGENCY:** Bureau of Land Management, Interior.

**SUMMARY:** The Bureau of Land Management (BLM) is scheduled to file the plats of survey of the lands described below thirty (30) calendar days from the date of this publication in the BLM Wyoming State Office, Cheyenne, Wyoming.

**FOR FURTHER INFORMATION CONTACT:**

Bureau of Land Management, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, Wyoming 82003.

**SUPPLEMENTARY INFORMATION:** This survey was executed at the request of the United States Department of Agriculture, Forest Service, Medicine Bow National Forest and is necessary for the management of these lands. The lands surveyed are:

The plat and field notes representing the dependent resurvey of a portion of the east boundary, a portion of the west boundary, a portion of the subdivisional lines, and the subdivision of certain sections, Township 18 North, Range 79 West, Sixth Principal Meridian, Wyoming, was accepted May 14, 2007.

Copies of the preceding described plat and field notes are available to the public at a cost of \$1.10 per page.

Dated: May 14, 2007.

**John P. Lee,**

*Chief Cadastral Surveyor, Division of Support Services.*

[FR Doc. E7-9653 Filed 5-18-07; 8:45 am]

**BILLING CODE 4467-22-P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

### National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before May 5, 2007.

Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St., NW., 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St., NW., 8th floor, Washington DC 20005; or by fax, 202-371-6447. Written or faxed comments should be submitted by June 5, 2007.

**J. Paul Loether,**

*Chief, National Register of Historic Places/ National, Historic Landmarks Program.*

### IDAHO

#### Idaho County

Elfers, Jurden Henry, Barn and Field, John Day Creek, Lucile, 07000544

### LOUISIANA

#### Acadia Parish

Istre Cemetery Grave Houses, Swift Rd., Morse, 07000545

### MASSACHUSETTS

#### Middlesex County

Shawsheen Cemetery, Great Rd. and Shawsheen Rd., Bedford, 07000547

#### Norfolk County

Wellesley Hills Branch Library, 210 Washington St., Wellesley, 07000546

### MISSOURI

#### Cole County

Sommerer, John M. and Lillian, House, 2023 W. Main St., Jefferson City, 07000548

#### St. Louis Independent city

Waterman Place—Kingsbury Place—Washington Terrace Historic District, Bounded by Union Blvd., alley S of Waterman Place, Belt Ave., alley S of Kingsbury Place, Clara Ave., alley line bet, St. Louis (Independent City), 07000549

### NEVADA

#### Elko County

Lamoille Organization Camp, Right Fork of Lamoille Creek, end of FS Rd. 122, Ruby Mountains Ranger District Humboldt—Toiyabe National Forest, Lamoille, 07000553

### NEW HAMPSHIRE

#### Belknap County

Rowe, Benjamin, House, 88 Belknap Mountain Rd., Gilford, 07000552

#### Carroll County

Wakefield Town Hall and Opera House, 2 High St., Wakefield, 07000550

#### Hillsborough County

Bedford Presbyterian Church, 4 Church Rd., Bedford, 07000554  
Temple Town Hall, Main St., jct. of NH 45 and Gen. Miller Hwy., Temple, 07000551

### NORTH CAROLINA

#### Wake County

Midway Plantation House and Outbuildings, (Wake County MPS) 1625 Old Crews Rd., Knightdale, 07000543

### OREGON

#### Yamhill County

J.C. Penney Building, 516 E. First St., Newberg, 07000555

### WISCONSIN

#### Marquette County

Vaughn's Hall and Blacksmith Shop, 55 W. Mentello St., Montello, 07000556

A request for removal has been made for the following resource:

### NORTH CAROLINA

#### Wake County

Midway Plantation E of Raleigh on U.S. 64 Raleigh vicinity, 70000473

[FR Doc. E7-9652 Filed 5-18-07; 8:45 am]

**BILLING CODE 4312-51-P**

## INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

### United States Section; Notice of Availability of a Final Environmental Assessment and Finding of No Significant Impact for Flood Control Improvements: International Dam to Riverside Diversion Dam Levee Segment within the Rio Grande Rectification Project, located in El Paso County, TX

**AGENCY:** United States Section, International Boundary and Water Commission (USIBWC), United States and Mexico.

**ACTION:** Notice of Availability of Final Environmental Assessment (EA) and Finding of No Significant Impact (FONSI).

**SUMMARY:** Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Final Regulations (40 CFR parts 1500 through 1508); and the United States Section's Operational Procedures for Implementing Section 102 of NEPA, published in the **Federal Register** September 2, 1981, (46 FR 44083); the United States Section hereby gives notice that the Final Environmental Assessment and Finding of No Significant Impact for Flood Control Improvements: International Dam to Riverside Diversion Dam Levee Segment within the Rio Grande Rectification Project, in El Paso County, Texas are available.

**FOR FURTHER INFORMATION CONTACT:** Gilbert Anaya, Supervisory Environmental Protection Specialist; Environmental Management Division; United States Section, International Boundary and Water Commission; 4171 N. Mesa, C-100; El Paso, Texas 79902. Telephone: (915) 832-4702, e-mail: [gilbertanaya@ibwc.state.gov](mailto:gilbertanaya@ibwc.state.gov).

**SUPPLEMENTARY INFORMATION:** The United States Section of the International Boundary and Water Commission (USIBWC) has prepared this Environmental Assessment (EA) for the proposed action to raise the levee system within the reach from International Dam to Riverside Diversion Dam. The levee system under consideration for this EA, approximately 15-miles long, is located entirely in El Paso County, Texas. Within this reach the USIBWC identified 8.14 miles of levee system as one of the priority areas within the Rio Grande Rectification Project for flood control improvements. The need for

improvements to the levee system was determined by hydraulic modeling completed by the USIBWC in 2003. The USIBWC hydraulic study for this reach indicated that an increase in levee height would be required to meet design criteria for flood protection. An increase from 0.5 to 2.5 feet is anticipated for an approximate 8.14-mile levee segment.

The Environmental Assessment assesses potential environmental impacts of the Proposed Action and the No Action Alternative. A Finding of No Significant Impact was issued for the Proposed Action, including mitigation measures, based on a review of the facts and analyses contained in the Environmental Assessment.

FEMA decertification of USIBWC levees in El Paso County, TX and Dona Ana County, New Mexico, in February 2006, has resulted in the need to upgrade the levees to FEMA criteria; draft Digital Flood Insurance Rate Maps will be issued in spring of 2007. The USIBWC plans on raising approximately 8.14-miles of USIBWC levees within the city limits of El Paso to meet the minimum 3 feet of freeboard criteria. This will enable USIBWC to partially certify the reach from American Dam to Riverside Dam in the Rio Grande Rectification Project before the end of calendar year 2007.

**Availability:** Electronic copies of the Final EA and FONSI are available from the USIBWC Home Page at <http://www.ibwc.state.gov>.

Dated: May 15, 2007.

**Susan Daniel,**  
General Counsel.

[FR Doc. E7-9736 Filed 5-18-07; 8:45 am]

**BILLING CODE 7010-01-P**

## INTERNATIONAL TRADE COMMISSION

[Inv. No. 337-TA-606]

### In the Matter of Certain Personal Computers and Digital Display Devices; Notice of Investigation

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Institution of investigation pursuant to 19 U.S.C. 1337.

**SUMMARY:** Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on April 19, 2007, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Hewlett-Packard Company of Palo Alto, California. The complaint alleges violations of section 337 in the importation into the United States, the

sale for importation, and the sale within the United States after importation of certain personal computers and digital display devices by reason of infringement of U.S. Patent Nos. 6,691,236; 6,029,119; 5,353,415; and 6,894,706. The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a permanent exclusion order and permanent cease and desist orders.

**ADDRESSES:** The complaint, except for any confidential information contained therein, are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436, telephone 202-205-2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://www.usitc.gov/secretary/edis.htm>.

**FOR FURTHER INFORMATION CONTACT:** Bryan Moore, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205-2767.

**Authority:** The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2006).

**Scope of Investigation:** Having considered the complaint, the U.S. International Trade Commission, on May 15, 2007, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain personal computers and digital display devices by reason of infringement of one or more of claims 1-17 of U.S. Patent No.



6,691,236; claims 1–5, 9, 10, 13–26, and 28–33 of U.S. Patent No. 6,029,119; claims 1–8 of U.S. Patent No. 5,353,415; and claims 1–8 and 23–33 of U.S. Patent No. 6,894,706, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Hewlett-Packard Company, 3000 Hanover Street, Palo Alto, California 94304.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Acer Incorporated, 8F, 88, Sec. 1, Hsin Tai Wu Road, Hsichih, Taipei, Hsien 221, Taiwan.

Acer America Corporation, 333 West San Carlos Street, Suite 1500, San Jose, California 95110.

(c) The Commission investigative attorney, party to this investigation, is Bryan Moore, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Room 401–R, Washington, DC 20436; and

(3) For the investigation so instituted, the Honorable Paul J. Luckern is designated as the presiding administrative law judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or cease and desist order or both directed against a respondent.

Issued: May 16, 2007.

By order of the Commission.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. E7–9723 Filed 5–18–07; 8:45 am]

**BILLING CODE 7020–02–P**

## INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–605]

### In the Matter of Certain Semiconductor Chips With Minimized Chip Package Size and Products Containing Same; Notice of Investigation

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Institution of investigation pursuant to 19 U.S.C. 1337.

**SUMMARY:** Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on April 17, 2007, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Tessera, Inc. of San Jose, California. Letters supplementing the complaint were filed on April 18 and May 4, 2007. The complaint, as supplemented, alleges violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain semiconductor chips with minimized chip package size and products containing same by reason of infringement of U.S. Patent Nos. 5,852,326 and 6,433,419. The complaint, as supplemented, further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a permanent exclusion order and a permanent cease and desist order.

**ADDRESSES:** The complaint and supplements, except for any confidential information contained therein, are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436, telephone 202–205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

General information concerning the Commission may also be obtained by accessing its internet server at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://www.usitc.gov/secretary/edis.htm>.

#### FOR FURTHER INFORMATION CONTACT:

Kecia J. Reynolds, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2580.

**Authority:** The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2006).

**Scope of Investigation:** Having considered the complaint, the U.S. International Trade Commission, on May 14, 2007, *Ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain semiconductor chips with minimized chip package size or products containing same by reason of infringement of one or more of claims 1, 2, 6, 12, 16–19, 21, 24–26, and 29 of U.S. Patent No. 5,852,326 and claims 1–11, 14, 15, 19, and 22–24 of U.S. Patent No. 6,433,419, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is —Tessera, Inc., 3099 Orchard Drive, San Jose, California 95134.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

ATI Technologies, ULC, 1 Commerce Valley Drive East, Thornhill, Ontario, Canada L3T 7X6.

Freescale Semiconductor, Inc., 6501 William Cannon Drive West, Austin, Texas 78735.

Motorola, Inc., 1303 E. Algonquin Road, Schaumburg, Illinois 60196.

Qualcomm, Inc., 5775 Morehouse Drive, San Diego, California 92121.

Spanion Inc., 915 Deguigne Drive, P.O. Box 3453, Sunnyvale, California 94088–3453.



Spancion LLC, 915 Deguigne Drive, P.O. Box 3453, Sunnyvale, California 94088-3453.

STMicronics N.V., 39, Chemin de Champ des Filles, 1228 Plan-Les-Ouates, Geneva, Switzerland.

(c) The Commission investigative attorney, party to this investigation, is Kecia J. Reynolds, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Suite 401, Washington, DC 20436; and

(3) For the investigation so instituted, the Honorable Robert L. Barton, Jr. is designated as the presiding administrative law judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against the respondent.

Issued: May 15, 2007.

By order of the Commission.

**Marilyn R. Abbott,**

Secretary.

[FR Doc. E7-9640 Filed 5-18-07; 8:45 am]

BILLING CODE 7020-02-P

## DEPARTMENT OF LABOR

### Office of the Secretary

#### Submission for OMB Review: Comment Request

May 15, 2007.

The Department of Labor (DOL) has submitted the following public information collection requests (ICR) to

the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. chapter 35). A copy of each ICR, with applicable supporting documentation, may be obtained from RegInfo.gov at <http://www.reginfo.gov/public/do/PRAMain> or by contacting Darrin King on 202-693-4129 (this is not a toll-free number)/e-mail: [king.darrin@dol.gov](mailto:king.darrin@dol.gov).

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Employment Standards Administration (ESA), Office of Management and Budget, Room 10235, Washington, DC 20503, Telephone: 202-395-7316/Fax: 202-395-6974 (these are not a toll-free numbers), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

*Agency:* Employment Standards Administration.

*Type of Review:* Extension without change of currently approved collection.

*Title:* Records to be kept by

Employers—FLSA.

*OMB Number:* 1215-0017.

*Form Number:* N/A.

*Frequency:* On occasion.

*Type of Response:* Recordkeeping.

*Affected Public:* Private sector:

Business or other for-profits, Farms, Not-for-profit institutions; Individuals or households; and State, Local, or Tribal government.

*Estimated Number of Respondents:* 5,800,000.

*Estimated Number of Annual Responses:* 41,442,427.

*Estimated Average Response Time:* Varies.

*Estimated Total Annual Burden Hours:* 1,023,678.

*Total Estimated Annualized capital/startup costs:* \$0.

*Total Estimated Annual Costs (operating/maintaining systems or purchasing services):* \$0.

*Description:* The Department uses this information to determine whether covered employers have complied with various the Fair Labor Standards Act (FLSA), 29 U.S.C. § 201, *et seq.* Employers use the records to document FLSA compliance, including showing qualification for various FLSA exemptions.

*Agency:* Employment Standards Administration.

*Type of Review:* Extension without change of currently approved collection.

*Title:* Motor Vehicle Safety for Transportation of Migrant and Seasonal Agricultural Workers

*OMB Number:* 1215-0036.

*Form Numbers:* WH-514, WH-514A, and WH-515.

*Frequency:* On occasion.

*Type of Response:* Reporting and Recordkeeping.

*Affected Public:* Business and other for-profit and Federal Government.

*Estimated Number of Respondents:* 300.

*Estimated Number of Annual Responses:* 3,900.

*Estimated Average Response Time:* 5 minutes for the Forms WH-514, WH-514A, and WH-515 and approximately 20 minutes for physical examination by a physician.

*Estimated Total Annual Burden Hours:* 885.

*Total Annualized capital/startup costs:* \$0.

*Total Annual Costs (operating/maintaining systems or purchasing services):* \$215,100.

*Description:* Migrant and Seasonal Agricultural Worker Protection Act (MSPA) section 401 (29 U.S.C. 1841) requires, subject to certain exceptions, all Farm Labor Contractors (FLCs), Agricultural Employers (AGERS), and Agricultural Associations (AGASs) to ensure that any vehicle they use or cause to be used to transport or drive any migrant or seasonal agricultural worker conforms to safety and health standards prescribed by the Secretary of Labor under the MSPA and with other applicable Federal and State safety and health standards. These MSPA safety standards address the vehicle, driver, and insurance.

Consistent with MSPA subsections 401(b)(2)(C)–(D), the U.S. Department of Labor (DOL), Wage and Hour Division (WHD), has issued regulations setting

forth the vehicle safety standards that must be met to ensure the safe transportation of migrant/seasonal agricultural workers. See 29 U.S.C. 1841(b)(2)(C)–(D); 29 CFR 500.100–102, 104–105. These regulations (1) issue unique DOL standards for certain types of transportation and (2) adopt U.S. Department of Transportation (DOT) standards for other types of transportation, without regard to the mileage or boundary limitations found at 49 U.S.C. § 31502(c). The regulations require FLCs to submit a mechanical inspection report and a doctor's certificate when they seek authorization to transport migrant/seasonal agricultural workers. 29 CFR 500.45(b). The regulations also require FLCs, AGERS, AGASs, and Farm Labor Contractor Employees (FLCEs) who drive vehicles transporting migrant/seasonal agricultural workers to maintain a copy of the doctor's certificate. 29 CFR 500.105(1)(H)–(I).

The WHD has created Forms WH–514, WH–514a, and WH–515, which allow FLC applicants to verify to the WHD that the vehicles used to transport migrant/seasonal agricultural workers meet the MSPA vehicle safety standards and that anyone who drives such workers meets the Act's minimum physical requirements. The WHD uses the information in deciding whether to authorize the FLC/FLCE applicant to transport/drive any migrant/seasonal agricultural workers or to cause such transportation.

*Agency:* Employment Standards Administration.

*Type of Review:* Extension without change of currently approved collection.

*Title:* Medical Travel Refund Request.

*OMB Number:* 1215–0054.

*Form Numbers:* OWCP–957.

*Frequency:* On occasion.

*Type of Response:* Reporting.

*Affected Public:* Individuals and households.

*Estimated Number of Respondents:* 163,236.

*Estimated Number of Annual Responses:* 163,236.

*Estimated Average Response Time:* 10 minutes.

*Estimated Total Annual Burden Hours:* 27,097.

*Total Annualized capital/startup costs:* \$0.

*Total Annual Costs (operating/maintaining systems or purchasing services):* \$68,559.

*Description:* The Office of Workers' Compensation Programs (OWCP) is the agency responsible for administration of the Federal Employees' Compensation Act (FECA), 5 U.S.C. 8101 *et seq.*, the

Black Lung Benefits Act (BLBA), 30 U.S.C. 901 *et seq.*, and the Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA), 42 U.S.C. 7384 *et seq.* All three of these statutes require that OWCP reimburse beneficiaries for travel expenses for covered medical treatment. In order to determine whether amounts requested as travel expenses are appropriate, OWCP must receive certain data elements, including the signature of the physician for medical expenses claimed under the BLBA. Form OWCP–957 is the standard format for the collection of these data elements. The regulations implementing these three statutes allow for the collection of information needed to enable OWCP to determine if reimbursement requests for travel expenses should be paid. (20 CFR 10.315, 30.404, 725.406 and 725.701).

Form OWCP–957 is used by OWCP and contractor bill processing staff to process reimbursement requests for travel expenses. To enable OWCP and its contractor bill processing staff to consider the appropriateness of the request in a timely fashion, it is essential that request include all of the data elements needed to evaluate the request. If all the data elements required by OWCP are not collected, the contractor staff cannot process the request for reimbursement.

*Agency:* Employment Standards Administration.

*Type of Review:* Extension without change of currently approved collection.

*Title:* Claim for Reimbursement of Benefit Payments and Claims Expense Under the War Hazards Compensation Act.

*OMB Number:* 1215–0202.

*Form Numbers:* CA–278.

*Frequency:* On occasion.

*Type of Response:* Reporting.

*Affected Public:* Private Sector: Business or other for-profit.

*Estimated Number of Respondents:* 7.

*Estimated Number of Annual Responses:* 140.

*Estimated Average Response Time:* 30 minutes.

*Estimated Total Annual Burden Hours:* 70.

*Total Annualized capital/startup costs:* \$0.

*Total Annual Costs (operating/maintaining systems or purchasing services):* \$239.

*Description:* The Office of Workers' Compensation Programs (OWCP) is the federal agency responsible for administration of the War Hazards Compensation Act (WHCA), 42 U.S.C. 1701 *et seq.* Under section 1704(a) of the WHCA, an insurance carrier or self-

insured who has paid workers' compensation benefits to or on account of any person for a war-risk hazard may seek reimbursement for benefits paid (plus expenses) out of the Employees Compensation Fund for the Federal Employees' Compensation Act (FECA) at 5 U.S.C. 8147.

Form CA 278 is used by insurance carriers and the self-insured to request reimbursement. The regulations that implement the WHCA permit OWCP to collect the information needed to consider an insurance carrier's or self-insured's reimbursement request at 20 CFR 61.101 and 61.104.

The information collected is used by OWCP staff to process requests for reimbursement of WHCA benefit payments and claims expenses submitted by insurance carriers and self-insureds. The information is also used by OWCP to decide whether it should opt to pay ongoing WHCA benefits directly to the injured worker.

*Agency:* Employment Standards Administration.

*Type of Review:* Extension without change of currently approved collection.

*Title:* Securing Financial Obligations Under the Longshore and Harbor Workers' Compensation Act and its Extensions.

*OMB Number:* 1215–0204.

*Form Numbers:* LS–275–IC, LS–275–SI, and LS–276.

*Frequency:* On occasion and Annually.

*Type of Response:* Reporting.

*Affected Public:* Private Sector: Business or other for-profit and Not-for-profit institutions.

*Estimated Number of Respondents:* 646.

*Estimated Number of Annual Responses:* 646.

*Estimated Average Response Time:* 1 hour for the Form LS–276 and 15 minutes for the Forms LS–275IC and LS–275SI.

*Estimated Total Annual Burden Hours:* 434.

*Total Annualized capital/startup costs:* \$0.

*Total Annual Costs (operating/maintaining systems or purchasing services):* \$288.

*Description:* The Longshore and Harbor Workers' Compensation Act requires covered employers to secure the payment of compensation under the Act and its extensions by purchasing insurance from a carrier authorized by the Secretary of Labor to write Longshore Act insurance, or by becoming authorized self-insured employers (33 U.S.C. 932). Each authorized insurance carrier (or carrier

seeking authorization) is required to establish annually that its Longshore Act obligations are fully secured either through an applicable state guaranty (or analogous) fund, a deposit of security with the Division of Longshore and Harbor Workers' Compensation (DLHWC), or a combination of both. Similarly, each authorized self-insurer (or employer seeking authorization) is required to fully secure its Longshore Act obligations by depositing security with DLHWC. These requirements are designed to assure the prompt and continued payment of compensation and other benefits by the responsible carrier or self-insurer to injured workers and their survivors.

Forms collect information used for determining appropriate security deposit amounts and insuring compliance with the security deposit requirements are described below.

LS-276, Application for Security Deposit Determination. Each currently authorized carrier and any carrier seeking such authorization must apply annually for a determination of the amount of security it must deposit with DLHWC by completing Form LS-276. DLHWC will use the information collected on Form LS-276 to determine the required security deposit amount for each carrier in light of the applicable state guaranty fund coverage. Regulations establishing this requirement are set forth at 20 CFR 703.2, 703.203, 703.209, 703.210, and 703.212.

LS-275 IC, Agreement and Undertaking (Insurance Carrier); LS-275 SI, Agreement and Undertaking (Self-Insured Employer). After DLHWC determines the amount of the required security deposit, the insurance carrier or self-insured employer executes Form LS-275 IC or LS-275 SI, respectively, to: (1) Report the security it has deposited and grant the Department a security interest in the collateral; (2) agree to abide by the Department's rules; and (3) authorize the Department to bring suit on any deposited indemnity bond, draw upon any deposited letters of credit, or to collect the interest and principal or sell any deposited negotiable securities when it deems it necessary to assure the carrier's or self-insurer's prompt payment of compensation and any other Longshore Act obligations it has. DLHWC reviews the information collected and verifies that the carrier or self-insurer has deposited the correct amount of security. DLHWC uses this information if it takes action on the security deposited to assure that the carrier or self-insurer meets its Longshore Act obligations. Regulations establishing

these requirements are set forth at 20 CFR 703.2, 703.204, 703.205, 703.303 and 703.304.

**Darrin A. King,**

*Acting Departmental Clearance Officer.*

[FR Doc. E7-9694 Filed 5-18-07; 8:45 am]

**BILLING CODE 4510-CF-P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

#### YouthBuild; Solicitation for Grant Applications (SGA); SGA/DFA-PY 06-08 Amendment No. 1

**AGENCY:** Employment and Training Administration (ETA), Labor.

**ACTION:** Amendment.

**SUMMARY:** The Employment and Training Administration published a document in the **Federal Register** of April 26, 2007, announcing the availability of funds and solicitation for grant applications for YouthBuild Grants to provide disadvantaged youth with the education and employment skills for meaningful work and service to their communities. The document is hereby amended.

**FOR FURTHER INFORMATION CONTACT:** Donna Kelly, Grants Management Specialist, Telephone (202) 693-3934.

#### Amendment

In the **Federal Register** of April 26, 2007, in FR Volume 72, Number 80:

1. On page 20877, starting in the middle column, the question "Can a National or Regional Organization Apply to Serve Multiple Urban or Rural Communities?" and its answer is now deleted from the solicitation.

The solicitation is amended to add the following question: Can I Apply For Multiple Towns in One Application? If a town is large enough to reasonably support a YouthBuild program, the grant activities should generally be focused on one town. If the applicant determines that the town is not large enough to support a YouthBuild program, it may include additional towns and provide justification for the larger service area. If multiple towns are included together in the application, applicants must limit the total requested grant amount to \$1.1 million.

2. On page 20878, in the middle column, Part III. (A) Eligible Applicants, it states the following: An organization is an eligible applicant for these grants if it is a public or private nonprofit agency or organization (including a consortium of such agencies or

organizations with a designated lead applicant), including:

The solicitation is amended to read: An organization is an eligible applicant for these grants if it is a public or private nonprofit agency or organization (including a consortium of such agencies or organizations with a designated lead applicant), including, but not limited to:

3. On page 20878, in the left column, under Section I.D, "What Are Allowable Uses of Grant Funds"? (13), it states the following: Equipment, and/or supplies related to the YouthBuild activities funded through this grant are an allowable use of funds.

The solicitation is amended to add the following statement: The Department of Labor interprets this to mean that the purchase of construction materials to be used for houses as part of the training for YouthBuild participants would be an allowable use of grant funds.

4. On page 20878, in the right column, Section III.C. Matching Funds and Leveraged Resources. The solicitation is amended to add the following statement: Construction materials that are acquired without grant funds and are used for houses as part of the training for YouthBuild participants may be used in fulfilling the 25 percent match requirement. The match may be cash or in-kind resources and must meet all the requirements in accordance with the applicable Federal cost principles.

5. YouthBuild "Frequently Asked Questions (FAQs)" will be posted on the Department of Labor, Employment & Training Administration, Youth Services Web site and may be accessed at [http://www.doleta.gov/youth\\_services/YouthBuild.cfm](http://www.doleta.gov/youth_services/YouthBuild.cfm). The FAQs may be updated during the life of the competition.

Signed at Washington, DC, this 14th day of May, 2007.

**Eric Luetkenhaus,**

*Grant Officer, Employment & Training Administration.*

[FR Doc. E7-9654 Filed 5-18-07; 8:45 am]

**BILLING CODE 4510-FT-P**

## NATIONAL CREDIT UNION ADMINISTRATION

### Notice of Meeting

**Time and Date:** 10 a.m., Thursday, May 24, 2007.

**Place:** Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314-3428.

**Status:** Open.

**Matters to be Considered:**

1. Proposed Rule: Section 701.2 of NCUA's Rules and Regulations, Federal Credit Union Bylaws.

2. Proposed Rule: Interpretive Ruling and Policy Statement (IRPS) 07-1, Section 701.1 of NCUA's Rules and Regulations, Amendments to NCUA's Chartering and Field of Membership Policies.

3. Final Rule: Part 701 of NCUA's Rules and Regulations, Technical Amendments.

*Recess:* 11:15 a.m.

*Time and Date:* 11:30 a.m., Thursday, May 24, 2007.

*Place:* Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314-3428.

*Status:* Closed.

*Matters to be Considered:*

1. Action under Section 205 of the Federal Credit Union Act. Closed pursuant to Exemptions (6), (7), and (8).

*For Further Information Contact:* Mary Rupp, Secretary of the Board, Telephone: 703-518-6304.

**Mary Rupp,**

*Secretary of the Board.*

[FR Doc. 07-2548 Filed 5-17-07; 2:15 am]

**BILLING CODE 7535-01-M**

## THE NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### Meetings of Humanities Panel

**AGENCY:** The National Endowment for the Humanities.

**ACTION:** Notice of meetings.

**SUMMARY:** Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that the following meetings of Humanities Panels will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

#### FOR FURTHER INFORMATION CONTACT:

Heather C. Gottry, Acting Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone (202) 606-8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on (202) 606-8282.

**SUPPLEMENTARY INFORMATION:** The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information

given in confidence to the agency by the grant applicants. Because the proposed meetings will consider information that is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential and/or information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated July 19, 1993, I have determined that these meetings will be closed to the public pursuant to subsections (c) (4), and (6) of section 552b of Title 5, United States Code.

1. *Date:* June 1, 2007.

*Time:* 9 a.m. to 5 p.m.

*Room:* 415.

*Program:* This meeting will review applications for The IMLS/NEH Digital Partnership Advancing Knowledge I, submitted to the Division of Preservation and Access, at the March 27, 2007 deadline.

2. *Date:* June 12, 2007.

*Time:* 9 a.m. to 5 p.m.

*Room:* 415.

*Program:* This meeting will review applications for The IMLS/NEH Digital Partnership Advancing Knowledge II, submitted to the Division of Preservation and Access, at the March 27, 2007 deadline.

**Heather C. Gottry,**

*Acting Advisory Committee, Management Officer.*

[FR Doc. E7-9717 Filed 5-18-07; 8:45 am]

**BILLING CODE 7536-01-P**

## NUCLEAR REGULATORY COMMISSION

**[Docket Nos. 50-346, 50-440, 50-334, and 50-412; License Nos. NPF-3, NPF-58, DPR-66, NPF-73; EA 07-123]**

### In the Matter of First Energy Nuclear Operating Company—Davis-Besse Nuclear Power Plant, Perry Nuclear Power Plant, and Beaver Valley Nuclear Plant, Units 1 and 2; Demand for Information

#### I

FirstEnergy Nuclear Operating Company (FENOC or licensee) is the holder of four NRC Facility Operating Licenses issued by the U.S. Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR part 50, which authorizes the operation of the specifically named facilities in accordance with the conditions specified in each license. License No. NPF-3 was issued on April 22, 1977, to

operate the Davis-Besse Nuclear Power Station (Davis-Besse). License No. NPF-58 was issued on November 13, 1986, to operate the Perry Nuclear Power Plant. Licenses No. DPR-66 and NPF-73 to operate the Beaver Valley Nuclear Plant, Units 1 and 2 were issued on July 2, 1976, and August 14, 1987, respectively. The facilities are located on the licensee's properties near Toledo and Painesville, Ohio, for the Davis-Besse and Perry Plants, respectively, and near McCandless, Pennsylvania, for the Beaver Valley Nuclear Plant.

#### II

On March 8, 2004, the NRC issued a Confirmatory Order to FENOC and approved restart of the Davis-Besse Plant following substantial licensee action to evaluate and develop appropriate corrective actions for the technical and programmatic issues that were associated with the 2002 reactor pressure vessel head degradation event.

On April 21, 2005, the NRC issued a Notice of Violation and Proposed Imposition of Civil Penalties in the amount of 5,450,000 dollars involving violations associated with the 2002 Davis-Besse reactor pressure vessel head degradation event and the root causes for the event. On September 14, 2005, FENOC responded to the Notice of Violation, paid the proposed civil penalty and addressed each of the violations cited. Its response also addressed FENOC's assessment of the root cause for each violation. On January 23, 2006, FENOC provided a supplemental reply to the Notice of Violation.

FENOC obtained a report from its contractor, Exponent Failure Analysis Associates and Altran Solutions Corporations (Exponent), dated December 2006, prepared in connection with its claim against Nuclear Electric Insurance Limited (NEIL), which included an updated analysis of the timeline and root cause for the 2002 Davis-Besse reactor pressure vessel head degradation event. A significant conclusion of this analysis was a determination by Exponent that the time period between the beginning of substantial leakage from the reactor pressure vessel head nozzle causing the development of the large cavity next to the nozzle may have been as short as four months. Previously, FENOC had conducted its own technical and programmatic root cause evaluations of the event and concluded that the reactor pressure vessel head cavity was the result of ongoing nozzle leakage which had gone undetected for more than four years. FENOC also obtained a second report, dated in December 2006, from

another contractor, entitled, "Report on Reactor Pressure Vessel Wastage at the Davis-Besse Nuclear Power Plant." This second report included conclusions that appeared to be inconsistent with FENOC's previous communications with the NRC and the April 21, 2005, Notice of Violation and Proposed Imposition of Civil Penalties associated with the 2002 Davis-Besse reactor pressure vessel degradation event.

In February 2007, NEIL sent to FENOC a letter identifying what NEIL believed to be potential safety concerns raised by the Exponent report conclusions. Upon receipt of the NEIL letter, the Davis-Besse plant staff generated a condition report in its corrective action program to document the issue.

During March 2007, the NRC held several conference calls with the Davis-Besse staff to obtain additional information regarding the licensee's assessment of the concerns raised in the NEIL letter and to understand the licensee's planned actions to address the concerns.

By letter dated April 2, 2007, the NRC requested the licensee to respond, in writing, to four questions regarding information and conclusions presented in the Exponent Report to assist the NRC in understanding the assumptions, analysis, and conclusions of the Exponent Report, and to confirm the information provided during the March 2007 conference calls.

By letter dated May 2, 2007, FENOC provided a written response to the NRC's questions. In its response, FENOC stated, among other things, that the Exponent Report set forth an informed analysis that more accurately characterizes the timeline of the reactor head degradation event based upon the use of more recently available test data in conjunction with detailed analytical modeling. FENOC's response did not indicate whether it had completed a comprehensive review of the Exponent Report relative to its previous root cause reports.

The information provided by the licensee regarding the foregoing did not provide the NRC with sufficient information to determine if FENOC had conducted a prompt and thorough review of the Exponent Report. In particular, the NRC needs additional information to determine whether FENOC conducted a timely and comprehensive analysis of the assumptions and conclusions of the Exponent Report to assess their accuracy relative to the technical and programmatic root cause reports previously developed by FENOC and an assessment of whether the NRC should

have been notified regarding its conclusions. In addition, FENOC did not provide the NRC with sufficient information to determine if FENOC endorsed the conclusions of the second contractor report and, if so, the effect such positions may have regarding its earlier responses to the April 2005 enforcement actions.

In light of the foregoing, further information is needed for the Commission to determine whether an Order or other action should be taken pursuant to 10 CFR 2.202, to provide reasonable assurance that FENOC will continue to operate its licensed facilities in accordance with the terms of its licenses and the Commission's regulations; in particular, to assure that:

1. FENOC demonstrates an appropriate focus, centered on the timely and critical evaluation of information developed internally by FENOC, by its contractors, and by industry sources which may affect safety assessments of its operating nuclear fleet;

2. FENOC promptly communicates to the NRC all information that it develops, receives, or becomes aware of that has the potential to have a significant impact on public health and safety;

3. FENOC has completed a comprehensive assessment of the assumptions and conclusions of the Exponent Report and has determined whether the assumptions and conclusions are consistent with the past operational experience at the Davis-Besse Plant, the assumptions of the previous technical and non-technical root cause reports developed by FENOC as a part of its assessment of the 2002 reactor pressure vessel head degradation event; and the corrective actions developed and implemented by FENOC and relied upon by the NRC as a basis for the restart of the Davis-Besse Plant.

4. FENOC has completed a comprehensive assessment of the conclusions of its contractor's report, entitled, "Report on Reactor Pressure Vessel Wastage at the Davis-Besse Nuclear Power Plant," and has determined whether the root cause reports and licensee event reports related to the 2002 reactor pressure vessel head degradation event and the responses to the NRC Notice of Violation and Proposed Imposition of Civil Penalties dated April 21, 2005, should be updated to ensure they are complete and accurate in all material respects.

### III

Accordingly, pursuant to sections 161c, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and

the Commission's regulations in 10 CFR 2.204 and 10 CFR 50.54(f), in order to determine whether your licenses should be modified, suspended or revoked, or other action should be taken, the licensee is required to submit to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, with copies to the Assistant General Counsel for Materials Litigation and Enforcement at the same address, to the Regional Administrator, NRC Region III, 2443 Warrenville, Road, Suite 210, Lisle, IL 60532-4352 and to the Resident Inspectors, within 30 days of the date of this Demand for Information the following information, in writing, and under oath or affirmation:

- A. A detailed discussion of the process used, the specific information evaluated, and the conclusions reached as a part of FENOC's assessment of the Exponent Report, upon receipt or subsequently, to determine if the Exponent Report assumptions, analyses, conclusions, or other related information, should have been reported to the NRC in a more prompt manner. Your response shall include sufficient information for the NRC to assess how FENOC evaluated the significant differences between the crack growth and leakage timelines developed in the Exponent Report and previous root cause reports.

- B. A detailed discussion of the differences in assumptions, analyses, conclusions, and other related information of the Exponent Report and previous technical and programmatic root cause reports, developed following the 2002 Davis-Besse reactor pressure vessel head degradation event. Your response shall address, among other matters you believe warranted, differences between the operational experience data, such as the origin and presence of boric acid deposits and corrosion products on air coolers, radiation filters, the reactor vessel head, and other components in the containment, and the Exponent Report assumptions for these items. Your response shall also indicate if differences in the Exponent Report assumptions, analyses, information, or conclusions and previous root cause reports demonstrate a need for any new or different corrective actions relative to the 2002 Davis-Besse reactor pressure vessel head degradation event and related issues. Your response shall also address the impact on the continued effectiveness of your corrective actions.

- C. With regard to the "Report on Reactor Pressure Vessel Wastage at the Davis-Besse Nuclear Power Plant," dated December 2006, indicate if

FENOC endorses the report's conclusions. If so, your response shall set forth your assessment of whether this position is in conflict with previous root cause and licensee event reports regarding the 2002 Davis-Besse reactor pressure vessel head degradation event and FENOC's responses to the NRC Notice of Violation and Proposed Imposition of Civil Penalties, dated April 21, 2005. Your response shall also address the impact on the continued effectiveness of your corrective actions.

After reviewing your response, the NRC will determine whether further action is necessary to ensure compliance with regulatory requirements.

For the Nuclear Regulatory Commission.

Dated this 14th day of May, 2007.

**Cynthia A. Carpenter,**

*Director, Office of Enforcement.*

[FR Doc. E7-9715 Filed 5-18-07; 8:45 am]

BILLING CODE 7590-01-P

## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

### Generalized System of Preferences (GSP): Notice Regarding the Initiation of the 2007 Annual GSP Product and Country Eligibility Practices Review and Change in Deadlines for Filing Certain Petitions

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice and solicitation for public petition.

**SUMMARY:** This notice announces that the Office of the United States Trade Representative (USTR) will receive petitions in 2007 to modify the list of products that are eligible for duty-free treatment under the GSP program, and to modify the GSP status of certain GSP beneficiary developing countries because of country practices. This notice further determines that the deadline for submission of product petitions, other than those requesting competitive need limitation (CNL) waivers, and country practice petitions for the 2007 Annual GSP Product and Country Eligibility Practices Review is 5 p.m., June 22, 2007. The deadline for submission of product petitions requesting CNL waivers is 5 p.m., November 16, 2007. The list of product petitions and country practice petitions accepted for review will be announced in the **Federal Register** at later dates.

**FOR FURTHER INFORMATION CONTACT:** Contact the GSP Subcommittee of the Trade Policy Staff Committee, Office of the United States Trade Representative,

1724 F Street, NW., Room F-220, Washington, DC 20508. The telephone number is (202) 395-6971, the facsimile number is (202) 395-9481, and the e-mail address is [FR0711@USTR.EOP.GOV](mailto:FR0711@USTR.EOP.GOV). Public versions of all documents relating to this Review will be available for examination approximately 30 days after the pertinent due date, by appointment, in the USTR public reading room, 1724 F Street, NW., Washington, DC. Availability of documents may be ascertained, and appointments may be made from 9:30 a.m. to noon and 1 p.m. to 4 p.m., Monday through Friday, by calling (202) 395-6186.

### 2007 Annual GSP Review

The GSP regulations (15 CFR part 2007) provide the timetable for conducting an annual review, unless otherwise specified by **Federal Register** notice. Notice is hereby given that, in order to be considered in the 2007 Annual GSP Product and Country Eligibility Practices Review, all petitions to modify the list of articles eligible for duty-free treatment under GSP or to review the GSP status of any beneficiary developing country, with the exception of petitions requesting CNL waivers, must be received by the GSP Subcommittee of the Trade Policy Staff Committee no later than 5 p.m. on June 22, 2007. Petitions requesting CNL waivers must be received by the GSP Subcommittee of the Trade Policy Staff Committee no later than 5 p.m. on November 16, 2007 in order to be considered in the 2007 Annual Review. Petitions submitted after the respective deadlines will not be considered for review.

Interested parties, including foreign governments, may submit petitions to: (1) Designate additional articles as eligible for GSP benefits, including to designate articles as eligible for GSP benefits only for countries designated as least-developed beneficiary developing countries, or only for countries designated as beneficiary sub-Saharan African countries under the African Growth and Opportunity Act (AGOA); (2) withdraw, suspend or limit the application of duty-free treatment accorded under the GSP with respect to any article, either for all beneficiary developing countries, least-developed beneficiary developing countries or beneficiary sub-Saharan African countries, or for any of these countries individually; (3) waive the "competitive need limitations" for individual beneficiary developing countries with respect to specific GSP-eligible articles (these limits do not apply to either least-

developed beneficiary developing countries or AGOA beneficiary sub-Saharan African countries); and (4) otherwise modify GSP coverage.

As specified in 15 CFR 2007.1, all product petitions must include a detailed description of the product and the subheading of the Harmonized Tariff Schedule of the United States (HTSUS) under which the product is classified.

Further, product petitions requesting CNL waivers for GSP-eligible articles from beneficiary developing countries that exceed the CNLs in 2007 must be filed in the 2007 Annual Review. In order to allow petitioners an opportunity to review additional 2007 U.S. import statistics, these petitions may be filed after June 22, 2007, but must be received on or before the November 16, 2007, deadline described above in order to be considered in the 2007 Annual Review. Copies will be made available for public inspection after the November 16, 2007, deadline.

Any person may also submit petitions to review the designation of any beneficiary developing country, including any least-developed beneficiary developing country, with respect to any of the designation criteria listed in sections 502(b) or 502(c) of the Trade Act (19 U.S.C. 2462(b) and (c)) (petitions to review the designation of beneficiary sub-Saharan African countries are considered in the Annual Review of the AGOA, a separate administrative process not governed by the GSP regulations). Such petitions must comply with the requirements of 15 CFR 2007.0(b).

### Requirements for Submissions

All such submissions must conform to the GSP regulations set forth at 15 CFR part 2007, except as modified below. These regulations are reprinted in the "U.S. Generalized System of Preferences Guidebook" (February 2007) ("GSP Guidebook"), available at [http://www.ustr.gov/assets/Trade\\_Development/Preference\\_Programs/GSP/asset\\_upload\\_file412\\_8359.pdf](http://www.ustr.gov/assets/Trade_Development/Preference_Programs/GSP/asset_upload_file412_8359.pdf).

Any person or party making a submission is strongly advised to review the GSP regulations. Submissions that do not provide the information required by sections 2007.0 and 2007.1 of the GSP regulations will not be accepted for review, except upon a detailed showing in the submission that the petitioner made a good faith effort to obtain the information required. Petitions with respect to waivers of the "competitive need limitations" must meet the information requirements for product addition requests in section 2007.1(c) of the GSP regulations. A model petition

format is available from the GSP Subcommittee and is included in the GSP Guidebook. Petitioners are requested to use this model petition format so as to ensure that all information requirements are met. Furthermore, interested parties submitting petitions that request action with respect to specific products should list on the first page of the petition the following information after typing "2007 Annual GSP Review": (1) The requested action; (2) the HTSUS subheading in which the product is classified; and (3) if applicable, the beneficiary developing country. Petitions and requests must be submitted, in English, to the Chairman of the GSP Subcommittee, Trade Policy Staff Committee. Submissions in response to this notice will be available for public inspection by appointment with the staff of the USTR Public Reading Room, except for information granted "business confidential" status pursuant to 15 CFR 2003.6. If the submission contains business confidential information, a non-confidential version of the submission must also be submitted that indicates where confidential information was redacted by inserting asterisks where material was deleted. In addition, the confidential submission must be clearly marked "BUSINESS CONFIDENTIAL" in large, bold letters at the top and bottom of each and every page of the document. The public version that does not contain business confidential information must also be clearly marked in large, bold letters at the top and bottom of each and every page (either "PUBLIC VERSION" or "NON-CONFIDENTIAL"). Documents that are submitted without any marking might not be accepted or will be considered public documents.

In order to facilitate prompt consideration of submissions, USTR requires electronic mail (e-mail) submissions in response to this notice. Hand-delivered submissions will not be accepted. E-mail submissions should be single copy transmissions in English with the total submission including attachments not to exceed 30 pages in 12-point type and 3 megabytes as a digital file attached to an e-mail transmission. Submissions should use the following e-mail subject line: "2007 Annual GSP Review-Petition." Documents must be submitted as either WordPerfect ("\*.WPD"), MSWord ("\*.DOC"), text ("\*.TXT"), or Adobe ("\*.PDF") file. Documents cannot be submitted as electronic image files or contain embedded images (for example, "\*.JPG", "\*.TIF", "\*.BMP", or "\*.GIF").

Supporting documentation submitted as spreadsheets are acceptable as Quattro Pro or Excel, pre-formatted for printing on 8½ × 11 inch paper. To the extent possible, any data attachments to the submission should be included in the same file as the submission itself, and not as separate files. E-mail submissions should not include separate cover letters or messages in the message area of the e-mail; information that might appear in any cover letter should be included directly in the attached file containing the submission itself, including identifying information on the sender, organization name, address, telephone number, and e-mail address. The electronic mail address for these submissions is [FR0711@USTR.EOP.GOV](mailto:FR0711@USTR.EOP.GOV).

For any document containing business confidential information submitted as an electronic attached file to an e-mail transmission, in addition to the proper marking at the top and bottom of each page as previously specified, the file name of the business confidential version should begin with the characters "BC-", and the file name of the public version should begin with the characters "P-". The "P-" or "BC-" should be followed by the name of the person or party (government, company, union, association, etc.) submitting the petition.

Documents not submitted in accordance with these instructions may not be considered in this review.

**Marideth Sandler,**

*Executive Director, GSP Program, Chairman, GSP Subcommittee of the Trade Policy Staff Committee.*

[FR Doc. E7-9756 Filed 5-18-07; 8:45 am]

**BILLING CODE 3190-W7-P**

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meetings

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of May 21, 2007:

Open Meetings will be held on Wednesday, May 23, 2007 at 9 a.m., Thursday, May 24, 2007 at 9 a.m. and Friday, May 25, 2007 at 9 a.m., in the Auditorium, Room L-002. A Closed Meeting will be held on Thursday, May 24, 2007 at 2 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain

staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (4), (5), (7), (8), (9)(B), and (10) and 17 CFR 200.402(a)(3), (4), (5), (7), (8), 9(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Atkins, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the Open Meeting scheduled for Wednesday, May 23, 2007 at 9 a.m. will be:

1. The Commission will consider whether to adopt interpretive guidance for management regarding its evaluation and assessment of internal control over financial reporting. The Commission will also consider whether to adopt amendments to Exchange Act Rules 13a-15(c) and 15d-15(c) that would make it clear that an evaluation that complies with the Commission's interpretive guidance would satisfy the annual management evaluation required by those rules. In addition, the Commission will consider whether to adopt amendments to Rules 1-02(a)(2) and 2-02(f) of Regulation S-X to require the expression of a single opinion directly on the effectiveness of internal control over financial reporting by the auditor in its attestation report. Finally, the Commission will consider whether to adopt amendments to Exchange Act Rule 12b-2 and Rule 1-02 of Regulation S-X to define certain terms.

2. The Commission will consider a number of rule proposals addressing the registration and disclosure requirements for smaller companies, as well as private offerings of securities, including whether:

- To propose amendments to increase the number of companies eligible for the scaled disclosure and reporting requirements for smaller reporting companies;
- To propose amendments to expand the eligibility requirements of Form S-3 and Form F-3 to permit registration of primary offerings by companies with a public float of less than \$75 million, subject to restrictions on the amount of securities sold in any one-year period;
- To propose exemptions from the registration requirements of the Securities Exchange Act of 1934 for grants of compensatory employee stock options by non-reporting companies;
- To propose a new Regulation D exemption for offers and sales of securities to a newly defined subset of "accredited investors," as well as to propose revisions to the Regulation D



definition of “accredited investor,” disqualification provisions, and integration safe harbor and to provide interpretive guidance regarding integration;

- To propose revisions to Form D and mandate electronic filing of Form D; and
- To propose amendments to Rule 144 to revise the holding period for the resale of restricted securities, simplify compliance for non-affiliates, revise the Form 144 filing thresholds, and codify certain staff interpretations, as well as to propose amendments to Rule 145.

3. The Commission will consider whether to adopt rules to implement provisions of the Credit Rating Agency Reform Act of 2006.

The subject matter of the Open Meeting scheduled for Thursday, May 24, 2007 at 9 a.m. will be:

The Commission will hold a roundtable discussion regarding proxy voting mechanics.

The subject matter of the Closed Meeting scheduled for Thursday, May 24, 2007 at 2 p.m. will be.

Formal orders of investigations;  
Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings of an enforcement nature;

Resolution of litigation claims;  
Regulatory matter regarding a financial institution; and

Other matters related to enforcement proceedings.

The subject matter of the Open Meeting scheduled for Friday, May 25, 2007 at 9 a.m. will be:

The Commission will hold a roundtable discussion regarding proposals of shareholders.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551-5400.

Dated: May 16, 2007.

Nancy M. Morris,  
Secretary.

[FR Doc. E7-9743 Filed 5-18-07; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55762; File No. SR-Amex-2007-47]

### Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Change the Method By Which Specialists on the Exchange Execute Odd-Lot Market Orders Under Rule 205—AEMI

May 15, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”) <sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on May 11, 2007, the American Stock Exchange LLC (“Amex” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the Exchange. Amex has filed this proposal pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(5) thereunder,<sup>4</sup> which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt changes to Rule 205—AEMI in order to change the method by which specialists on the Exchange execute odd-lot market orders.

The text of the proposed rule change is available on Amex’s Web site at <http://www.amex.com>, at the Exchange’s principal office, and at the Commission’s Public Reference Room.

#### II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Amex included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Amex has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

#### A. Self-Regulatory Organization’s Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

The Exchange is currently operating, and has adopted rules in connection with the operation of, its new hybrid market trading platform for equity products and exchange-traded funds, designated as AEMI<sup>SM</sup> (the Auction and Electronic Market Integration platform). Rule 205—AEMI (“Manner of Executing Odd-Lot Orders”) requires the specialist for a relevant security to be the contra-party for executions of any odd-lot orders in that security received by AEMI and specifies, in relevant part, the pricing at which such executions must occur. In the case of odd-lot market orders that are not executed within 30 seconds of receipt by AEMI, the specialist is currently required to execute such orders at the price of the qualifying national best bid or offer (“NBBO”). In order to ensure a fair and orderly market, the Exchange proposes to amend Rule 205—AEMI to provide for such odd-lot market orders to now be executed at the specialist’s quote, rather than the NBBO.

##### (i) How Rule 205—AEMI Works Today

Rule 205—AEMI(b)(i)–(iii) currently requires the specialist to execute a market odd-lot order at the price of a subsequent round-lot execution that occurs in the subject security on the Exchange for 30 seconds after the odd-lot order is entered. However, a market odd-lot order is executed at this round-lot price only to the extent that there are a sufficient number of shares subsequently transacted in round-lots on the Exchange within that 30 second window to match any imbalance between the pending odd-lot market buy and sell orders. If there are an insufficient number of shares in round-lot executions within that 30 seconds from which to benchmark the market odd-lot execution price of the imbalance, Rule 205—AEMI(b)(iv) dictates that the NBBO be used as the default price at which the specialist is required to execute.<sup>5</sup>

<sup>5</sup> Applying the rule, assume AEMI receives market odd-lot buy orders aggregating 1,500 shares and market odd-lot sell orders aggregating 3,500 shares in a security. The next and only round-lot execution on the Amex within the next 30 seconds is 500 shares at \$10, and, at the expiration of the 30 seconds, the NBB is 100 shares at \$10.50 on NYSE. The specialist is required in time priority of receipt of the odd-lot orders into AEMI to:

- Sell/buy an equal number of shares on each side of the odd-lot market at \$10, which clears the 1,500 shares of odd-lot market buy orders and

Continued

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>4</sup> 17 CFR 240.19b-4(f)(5).



## (ii) The Identified Deficiency in Rule 205—AEMI

It has become apparent to the Exchange that the current version of Rule 205—AEMI (insofar as it forces the specialist to execute any unexecuted imbalance in odd-lot orders at the NBBO) provides too much opportunity for manipulation to the detriment of both the specialists and accuracy in pricing. In practice, the Exchange has recently observed a high number of odd-lot market orders in less liquid securities and believes that this is a direct result of the rule's guarantee of execution at the NBBO irrespective of whether the size or timeliness of the NBBO is comparable to those of the odd-lot orders on the Exchange. The Exchange is concerned that off-floor participants may be breaking up larger round-lots into multiple odd-lots to take advantage of NBBO pricing on the Exchange where such pricing would be unattainable if the larger orders were submitted and price discovery was possible. This behavior would violate Exchange rules<sup>6</sup> but unfortunately can be ascertained only via case-by-case post-trade investigation. Additionally, in the case of very highly-priced, yet thinly traded, securities, specialists are bearing inappropriate burdens as odd-lot dealers as well. Below are two examples of what can occur:

- Assume that an illiquid security has an average daily volume of 15,000 shares. Assume also that the NBBO is \$5.00 bid for 100 shares on NASDAQ

leaves an imbalance of 2,000 of the original 3,500 shares of odd-lot market sell orders.

- In response to the remaining 2,000 shares of odd-lot market sell orders, buy a maximum of 500 shares at \$10 because that is the total size of subsequent round-lot transactions within the 30-second window. (This assumes that the remaining odd-lot sell orders with greatest time priority total 500 shares exactly. If a partial execution would result by stopping the specialist from buying at \$10 once the 500 share threshold was reached, then the specialist could buy more than 500 shares at \$10 so as to permit execution in full of the last odd-lot order at that price. See Rule 205—AEMI(b)(ii).)

- At the expiration of 30 seconds, purchase the 1,500 shares remaining from the odd-lot sell orders at \$10.50 (the NBB), even though the NBB was for only 100 shares and might not reflect the price at which the specialist would or should otherwise be willing to purchase 1,500 shares.

<sup>6</sup> See Rule 4 (generally prohibiting manipulation of securities prices) and Rule 208 (applicable in AEMI via Rule 1A—AEMI(d)), entitled "Bunching of Odd-Lot Orders," which provides in relevant part:

When a person gives, either for his own account, for various accounts in which he has an actual monetary interest, or for accounts over which such person is exercising investment discretion, buy or sell odd-lot orders which aggregate one or more round-lots, a member or member organization shall not accept such orders for execution unless they are, as far as possible, consolidated into round-lots, except that selling orders marked "long" or "short exempt" need not be so consolidated with selling orders marked "short."

and 500 shares offered at \$5.10 on NYSE. The liquidity around the NBBO is very thin, and no round-lot executions have taken place over the last four hours, during which period Amex nonetheless receives many odd-lot market orders. In accordance with Rule 205—AEMI, each odd-lot order is executed after 30 seconds against the specialist at the NBBO automatically, although the specialist is not quoting at the NBBO, the NBBO has not changed, and no round-lot trades have occurred in the marketplace. Over the course of the four hours, the specialist is forced to purchase an aggregate of 10,553 shares in odd-lots, each at a price of \$5.00, even though grossly disproportionate to the 100 share order size connected to the \$5.00 NBB, the overall activity in the marketplace, and the likely lower value at which an equivalent aggregate volume of round lots would have transacted in such an illiquid market. As such, the specialist is forced to bear an inappropriate amount of risk of loss as odd-lot dealer because, rather than price discovery being permitted to occur as would occur with round-lot quotes, the specialist is forced to purchase all of the odd-lots at the stale NBBO price.

- Assume a very highly-priced thinly-traded security with an NBBO of 100 shares bid for \$800 on NASDAQ and 100 shares offered at \$806 on NYSE. Because of the high price of the shares, round-lot executions are infrequent and no round-lot executions have taken place on Amex over the last four hours. Nonetheless, Amex receives multiple odd-lot market sale orders aggregating 367 shares over that time period. In accordance with Rule 205—AEMI, each odd-lot order is executed after 30 seconds against the specialist at \$800, and, over the course of the four hours, the specialist is forced to purchase an aggregate of 367 shares in odd-lots at \$800 per share for \$293,600. Because of the high stock price, the absence of price discovery amplifies the costs to the specialist in the event of disparity between the stale NBBO and the true value of the security. Had the mandatory \$800 bid been reduced by a mere 0.5% (to \$796)—to reflect what a hypothetical reasonable investor would pay for a thinly-traded \$800 security with an imbalance of sell interest in the market—the aggregate outlay would be \$1468 less.

## (iii) The Solution

As described above, the Exchange believes that the way odd-lot market orders are currently being executed today (only insofar as the NBBO price is imposed under Rule 205—AEMI(b)(i)–(iv) as a default price upon

the specialists in the absence of a sufficient number of round-lot order executions on the Exchange within 30 seconds of each odd-lot market order) is inconsistent with the specialists' obligations to quote and maintain a fair and orderly market. Moreover, odd-lot orders are not subject to the Limit Order Display Rule<sup>7</sup> or Order Protection Rule<sup>8</sup> under Regulation NMS and do not have the same standing as round-lot orders with regard to price protection. Accordingly, the Exchange proposes to change the default price in Rule 205—AEMI(b) under which specialists are required to execute odd-lot market orders not executed within 30 seconds after receipt by AEMI from the NBBO to the specialist's own best bid or offer.

The Exchange believes that this proposal properly balances a more reasonable level of risk exposure for the specialists with their obligation to trade odd lots and deliver timely executions to investors. In particular, the proposal would permit price discovery to occur (via programmed automated adjustments flowing from executions against the specialist's quote) while still requiring the specialist to provide timely executions of odd-lot market orders. As such, executions of odd lots on the Exchange will be more likely to occur at prices which reflect the most current market conditions. In this regard, the Exchange points out that specialists are specifically required by Exchange rules to formulate quotes to avoid wide swings in the pricing of prior and subsequent transactions,<sup>9</sup> so the substitution of the specialist's quote for the NBBO in Rule 205—AEMI is not intended to, and should not result in, unreasonably priced executions of odd-lot market orders.

\* \* \* \* \*

The proposed rule change would result in the following textual changes in Rule 205—AEMI:

- Substitution of the words "specialist's best bid" and "specialist's best offer" for "qualified national best bid" and "qualified national best offer" where such terms appear in the rule.
- Removal of Commentary .04 to the rule, which deals solely with explaining the definition of "qualified national best bid or offer," which will no longer be relevant to Rule 205—AEMI.

<sup>7</sup> 17 CFR 242.604.

<sup>8</sup> 17 CFR 242.611.

<sup>9</sup> Commentary .03 to Rule 170—AEMI provides in relevant part: "A specialist's quotation, made for his own account, should be such that a transaction effected at his quoted price or within the quoted spread \* \* \* would bear a proper relation to preceding transactions and anticipated succeeding transactions or, in the case of ETFs or other derivatively priced securities, to the value of underlying or related securities."

## 2. Statutory Basis

The proposed rule change is designed to be consistent with Section 6(b) of the Act,<sup>10</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>11</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and national market system, and, in general, to protect investors and the public interest.

### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others*

No written comments were solicited or received with respect to the proposed rule change.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not: (1) Significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) have the effect of limiting the access to or availability of an existing order entry or trading system of the Exchange, the foregoing rule change has become effective immediately pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>12</sup> and Rule 19b-4(f)(5) thereunder.<sup>13</sup> At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in the furtherance of the purposes of the Act.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

### *Electronic Comments*

- Use the Commission's Internet comment form at <http://www.sec.gov/rules/sro.shtml>; or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File No. SR-Amex-2007-47 on the subject line.

### *Paper comments*

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File No. SR-Amex-2007-47. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR-Amex-2007-47 and should be submitted on or before June 11, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>14</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. E7-9659 Filed 5-18-07; 8:45 am]

**BILLING CODE 8010-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55764; File No. SR-ISE-2007-18]

### **Self-Regulatory Organizations; International Securities Exchange, LLC.; Order Approving Proposed Rule Change Relating to Information Regarding Customer Interest on the Book**

May 15, 2007.

## I. Introduction

On March 5, 2007, the International Securities Exchange, LLC ("ISE" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to allow the ISE to make available to all ISE members information regarding the quantity of public customer contracts included in the ISE's highest bid and lowest offer. The proposed rule change was published for comment in the **Federal Register** on April 12, 2007.<sup>3</sup> The Commission received no comments regarding the proposal. This order approves the proposed rule change.

## II. Description of the Proposal

Currently, the ISE provides information regarding the quantity of public customer contracts at the ISE's best bid and best offer ("BBO") only to Primary Market Makers ("PMMs"). The ISE proposes to adopt ISE Rule 713, Supplementary Material .04, to allow the ISE to make such information available to all ISE members. According to the ISE, the Chicago Board Options Exchange ("CBOE") currently provides its members with information regarding customer interest at the CBOE's BBO. The ISE believes that it is necessary to provide its members with similar information to remain competitive with the CBOE. In addition, the ISE notes that the information would allow an ISE member to know the number of customer contracts it would need to satisfy before the member could cross a large block-sized order. The ISE believes that such information is particularly useful for members seeking to execute larger-sized orders through the ISE's block and facilitation mechanisms.<sup>4</sup> In addition, the proposal corrects several cross-references in ISE Rule 713(a).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Securities Exchange Act Release No. 55589 (April 5, 2007), 72 FR 18498.

<sup>4</sup> See ISE Rule 716.

<sup>10</sup> 15 U.S.C. 78f(b).

<sup>11</sup> 15 U.S.C. 78f(b)(5).

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>13</sup> 17 CFR 240.19b-4(f)(5).

<sup>14</sup> 17 CFR 200.30-3(a)(12).

### III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>5</sup> Specifically, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,<sup>6</sup> which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. Specifically, the proposal will allow the ISE to make available to all ISE members information regarding customer interest at the ISE's BBO that currently is available only to PMMs. In addition, the proposal will allow the ISE to provide its members with the same customer interest information that CBOE currently makes available to its members.

### IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>7</sup> that the proposed rule change (SR-ISE-2007-18) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. E7-9664 Filed 5-18-07; 8:45 am]

**BILLING CODE 8010-01-P**

### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55768; File No. SR-NYSE-2007-24]

#### **Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto Relating to Rule 13 (Definitions of Orders) To Establish the New Order Type Called Do Not Ship**

May 15, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on April 20, 2007, the New York Stock Exchange LLC ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed rule change. The Exchange filed Amendment No. 1 to the proposed rule change on May 11, 2007. The proposed rule change, as amended, is described in Items I and II below, which Items have been substantially prepared by the NYSE. The Exchange filed the proposal pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

#### **I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes to amend its Rule 13 (Definitions of Orders) to establish the new order type called Do Not Ship ("DNS"). The text of the proposed rule change is available at the Exchange, on the Exchange's Web site at <http://www.nyse.com>, and at the Commission's Public Reference Room.

#### **II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set

forth in Sections A, B, and C below, of the most significant aspects of such statements.

#### *A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

##### **1. Purpose**

The Exchange is amending Rule 13 to adopt a Do Not Ship, or "DNS," order. A DNS order will be a limit order to buy or sell that is to be quoted and/or executed in whole or in part only on the Exchange. In the event the order would require routing to another market center pursuant to Exchange rules or federal securities laws, it would be immediately cancelled by Exchange systems.

The proposed DNS order provides an alternative for market participants who are seeking to have their order quoted and executed solely on the Exchange. The Exchange states that the DNS order provides the market participant with control over execution costs and where the order will be handled.

Regulation National Market System ("Reg. NMS") requires, among other things, that with limited exceptions, trading centers have policies and procedures reasonably designed to prevent the execution of trades at prices inferior to protected quotations displayed by other market centers.<sup>5</sup> The Exchange states that, in this context, orders that are routed away to other market center(s) in compliance with Reg. NMS may cause the market participant to incur multiple fees because the customer has to pay a separate fee each time the order is routed to other market center(s) during the course of its execution. The DNS order enables a market participant to control the costs associated with order execution by limiting the execution of the order in whole or in part, to the Exchange.

Similarly, a market participant who desires to have its order executed in whole or in part solely on the Exchange will also benefit from the DNS order which, by its terms, will immediately and automatically cancel if it is required to be routed away to another market center.

Generally, a DNS order can quote and trade on the Exchange. Where the bid or offer on the Exchange matches the bid or offer at another market center, an incoming DNS order that is eligible to quote and trade will do so first at the Exchange. However, if quoting the DNS order will cause the locking or crossing

<sup>5</sup> In approving this proposed rule change the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> 15 U.S.C. 78s(b)(2).

<sup>8</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

<sup>5</sup> See 17 CFR 242.611. See also Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005).

of another market center in violation of Exchange Rule 19 (Locking or Crossing Protected Quotations in NMS Stocks), the DNS order will cancel. If all or part of a DNS order would have been required, pursuant to Federal securities laws, to be routed to another market center upon entry at the Exchange, it will immediately and automatically cancel. When a DNS order is not eligible to be traded, it will be placed on the Display Book system at its limit price.

The Commission has previously approved the use of order types substantially similar to the DNS on other exchanges.<sup>6</sup> The Exchange believes that the DNS order will not only give the market participant greater flexibility in terms of execution costs and where the order will be handled, but it will also allow the Exchange a greater opportunity to compete in the current market landscape.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirement under Section 6(b)(5) of the Act<sup>7</sup> that the rules of an Exchange are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

### B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change does not: (1) Significantly affect the

protection of investors or the public interest; (2) impose any significant burden on competition; and (3) become operative for 30 days after the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>8</sup> and Rule 19b-4(f)(6) thereunder.<sup>9</sup>

NYSE has requested that the Commission waive the 30-day operative delay.<sup>10</sup> The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because the Commission has previously approved similar order types for other exchanges,<sup>11</sup> and waiver will allow the Exchange to implement this order type as soon as its systems are modified to recognize it.<sup>12</sup> For this reason, the Commission designates the proposed rule change to be effective and operative upon filing with the Commission.<sup>13</sup>

At any time within 60 days of the filing of such proposed rule change the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Act.<sup>14</sup>

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

### Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 17 CFR 240.19b-4(f)(6).

<sup>10</sup> 17 CFR 240.19b-4(f)(6)(iii). Rule 19b-4(f)(6) also requires the self-regulatory organization to give the Commission notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied the five-day pre-filing requirement.

<sup>11</sup> See *supra* at note 6.

<sup>12</sup> The Exchange represents that it seeks the requested waivers to allow for the immediate implementation of this new order type upon the operability of the Exchange's systems on or about May 18, 2007.

<sup>13</sup> For the purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>14</sup> The Commission considers the 60-day abrogation period to have commenced on May 11, 2007, the date the Exchange filed Amendment No. 1.

- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSE-2007-24 on the subject line.

### Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSE-2007-24. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSE-2007-24 and should be submitted on or before June 11, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>15</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. E7-9667 Filed 5-18-07; 8:45 am]

**BILLING CODE 8010-01-P**

<sup>6</sup> See NYSE Arca, Inc. Equities Rule 7.31 (Orders and Modifiers) subsection (w) PNP Order (Post No Preference); Securities Exchange Act Release No. 44983 (October 25, 2001), 66 FR 55225 (November 1, 2001) (SR-PCX-00-25). See also Philadelphia Stock Exchange, Inc. Rules of the Board of Governors Rule 185 (Orders and Order Execution) subsection (b) (Limited Price Orders) subparagraphs (1)(D); Securities Exchange Release No. 54538 (September 28, 2006), 71 FR 59184 (October 6, 2006) (SR-Phlx-2006-43).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

<sup>15</sup> 17 CFR 200.30-3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55766; File No. SR-NYSE-2006-06]

### Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of a Proposed Rule Change and Amendment No. 1 Thereto Relating to Proposed New Rule 350A ("Business Entertainment") Concerning Policies and Procedures Addressing Business Entertainment

May 15, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act" or "Exchange Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on February 15, 2006, the New York Stock Exchange LLC ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by NYSE. On April 26, 2007, NYSE filed Amendment No. 1 to the proposed rule change.<sup>3</sup> The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.<sup>4</sup>

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes new Rule 350A ("Business Entertainment") to address conflict of interest issues in connection with the provision of business entertainment by member organizations to representatives of customers or prospective customers. Below is the text of the proposed rule change. Proposed new language is italicized.

#### *Business Entertainment*

##### *Rule 350A*

###### *(a) General Requirements*

*No member organization or person associated with a member organization shall, directly or indirectly, provide any*

*business entertainment to a customer representative pursuant to the establishment of, or during the course of, a business relationship with any customer that is intended or designed to cause, or would be reasonably judged to have the likely effect of causing, such customer representative to act in a manner that is inconsistent with:*

- (1) The best interests of the customer; or*
- (2) The best interests of any person to whom the customer owes a fiduciary duty.*

###### *(b) Definitions*

*For purposes of this rule, the following definitions shall apply:*

###### *(1) The term "customer" means:*

*(A) a person that maintains a business relationship with a member organization via the maintenance of an account, through the conduct of investment banking, or pursuant to other securities-related activity; or*

*(B) a person whose customer representative receives business entertainment for the purpose of encouraging such person to establish a business relationship with a member organization by opening an account with the member organization or by conducting investment banking or other securities-related activity with the member organization.*

*(2) The term "customer representative" means a person who is an employee, officer, director, or agent of a customer, unless such person is a family member of the customer.*

*(3) The term "family member" means a person's parents, mother-in-law or father-in-law, spouse, brother or sister, brother-in-law or sister-in-law, son-in-law or daughter-in-law, and children.*

*(4) The term "business entertainment" means any social event, hospitality event, sporting event, entertainment event, meal, leisure activity, or event of like nature or purpose, including business entertainment offered in connection with a charitable event, educational event or business conference, as well as any transportation or lodging related to such activity or event, in which a person associated with a member organization accompanies a customer representative.*

*(A) If a customer representative is not accompanied by an appropriate associated person of the member organization, any expenses associated with the business entertainment will be considered a gift under Rule 350 unless exigent circumstances make it impractical for an associated person to attend. All instances where such exigent circumstances are invoked must be clearly and thoroughly documented and be subject to the prior written approval*

*of a designated supervisory person or, in very limited circumstances where such prior approval cannot reasonably be obtained, to a prompt post-event review to be conducted and documented by such supervisory person.*

*(B) Anything of value given or otherwise provided to a customer representative that does not fall within the definition of "business entertainment" is a gift under Rule 350.*

*(C) In valuing business entertainment expenses pursuant to this Rule, a member organization's written policies and procedures must specify the methodology to be used by the member organization to calculate the value of business entertainment. In general, business entertainment expenses should be valued at the higher of face value or cost to the member organization.*

*(D) For purposes of this Rule, the terms "person associated with a member organization" or "associated person" are defined to include: (1) A natural person who is registered or has applied for registration under the Rules of the NYSE; (2) a sole proprietor, partner, officer, director, or branch manager of a member organization, or other natural person occupying a similar status or performing similar functions, or a natural person engaged in the investment banking or securities business who is directly or indirectly controlling or controlled by a member organization, whether or not any such person is registered or exempt from registration with the NYSE or NASD.*

###### *(c) Written Policies and Procedures*

*(1) Each member organization must have written policies and supervisory procedures that:*

*(A) define forms of business entertainment that are appropriate and inappropriate using quantitative and/or qualitative standards that address the nature and frequency of the entertainment provided, as well as the type and class of any accommodations or transportation provided in connection with such business entertainment; and*

*(B) make clear that anything of value given or otherwise provided to a customer representative that does not fall within the definition of "business entertainment" is a gift under Rule 350; and*

*(C) impose either specific dollar limits on business entertainment or require advance written supervisory approval beyond specified dollar thresholds; and*

*(D) are designed to detect and prevent business entertainment that is intended as, or could reasonably be perceived to be intended as, an improper quid pro quo or that could otherwise give rise to a potential conflict of interest or*

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> Amendment No. 1 replaced and superseded the original rule filing in its entirety.

<sup>4</sup> The Commission also is separately publishing a notice by the National Association of Securities Dealers, Inc. ("NASD") to propose new IM-3060 on business entertainment, which is substantially similar to NYSE's proposed rule text. See Securities Exchange Act Release No. 55765 (May 15, 2007) (SR-NASD-2006-044). The NYSE proposal and the NASD proposal primarily differ in that the NYSE proposal contains a "Notice to Customers" provision. See Section II(A)(1), Purpose section, and Section IV, Solicitation of Comments section, below.

undermine the performance of a customer representative's duty to a customer or to any person to whom the customer owes a fiduciary duty; and

(E) establish standards to ensure that persons designated to supervise and administer the written policies and procedures are sufficiently qualified; and

(F) require appropriate training and education for all personnel who supervise, administer, or are subject to the written policies and procedures.

(2) A member organization's written policies and procedures may distinguish, and set specifically tailored standards for, business entertainment in connection with events that are deemed to be primarily educational, charitable, or philanthropic in nature, provided that such standards comply with the requirements of this rule and are explicitly addressed in the written policies and procedures.

(d) Recordkeeping

(1) Each member organization's written policies and procedures must require the maintenance of detailed records of business entertainment expenses provided to any customer representative. The member organization is not required to maintain records of:

(A) business entertainment when the total value of the business entertainment, including all expenses associated with the business entertainment, does not exceed \$50 per day; or

(B) additional expenses incurred in connection with otherwise recorded business entertainment that do not, in the aggregate, exceed \$50 per day.

(2) Each member organization's written policies and procedures must include provisions reasonably designed to prevent member organization associated persons from circumventing the recordkeeping requirements in contravention of the spirit and purpose of this rule (e.g., a pattern of providing a customer representative with business entertainment valued at \$48).

(3) Each member organization's written policies and procedures must require that, upon a customer's written request, the member organization will promptly make available to the customer any records regarding business entertainment provided to customer representatives of that customer.

(e) Notice to Customers

Each member organization must have a system in place to give notice (e.g., via the member organization's Web site, a disclosure document, or other appropriate means) to customers that utilize customer representatives subject

to this rule that, upon a customer's written request, the member organization will promptly provide detailed information regarding the manner and expense of any business entertainment provided to their customer representative(s) by such member organization.

(f) Exemptions

(1) General Exemptions

This rule does not apply to any member organization that does not engage in business entertainment. For any member organization that engages in business entertainment, this rule applies only with respect to business entertainment provided to customer representatives.

(2) Specific Exemption for Member Organizations with Business Entertainment Expenses Below \$7,500

A member organization whose business entertainment expenses in the course of its fiscal year are below \$7,500 shall be subject only to paragraphs (a), (b), (c)(1)(D) and (E) of this rule and shall otherwise be exempt from paragraphs (c), (d) and (e). Each member organization that relies on this exemption must be able to evidence that its business entertainment expenses are below the \$7,500 threshold.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, NYSE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below, and the most significant aspects of such statements are set forth in Sections A, B, and C below.

**A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

**1. Purpose**

The Exchange is proposing new Rule 350A ("Business Entertainment" or the "Rule") to address conflict of interest issues in connection with the provision of business entertainment by member organizations to representatives of customers or prospective customers. Specifically, the proposed rule addresses the concern that customer representatives' decisions to direct business (e.g., order flow) to a given member organization may be influenced by lavish entertainment provided by a member organization or a person

associated with a member organization ("associated person"), rather than on the basis of the brokerage services to be provided. Such conduct is potentially violative of both Commission and self-regulatory organization rules (e.g., best execution obligations).<sup>5</sup>

The Exchange has worked closely with industry representatives and the NASD to develop a substantially uniform industry business entertainment standard to address the potential for such conflicts of interest. The Exchange initially contemplated a strictly prescriptive approach that established specific quantitative dollar standards for all broker-dealers. However, for the reasons discussed in detail below, such an approach was ultimately deemed impracticable as it neither reasonably addressed the regulatory issue in question nor the business realities of Exchange membership. In light of the practical difficulties associated with the imposition of a single quantitative standard across the spectrum of broker-dealer business models, the proposed rule takes a more principle-based approach with flexible prescriptive elements and guidelines.

**Background**

In attempting to codify business entertainment guidelines, the Exchange was faced with developing an approach that addresses regulatory concerns, is practical, and does not unreasonably nor unduly interfere with broker-dealers' legitimate commercial and business relationships. The primary merit of adopting a strictly prescriptive approach with fixed dollar limits is that it provides bright line standards that, arguably, could facilitate industry compliance. However, imposing a fixed dollar standard is not without practical problems. For example, it does not take into account regional differences—which is to say that what might be considered "lavish" or "excessive" in one city might not necessarily be deemed so in another. Further, what might be considered appropriate entertainment for an investment banking/institutional client base might be considered lavish and/or excessive in a retail customer context.

Since terms such as "lavish" or "excessive" can be subjective and standards of appropriateness may vary

<sup>5</sup> Although not explicitly defined by the Commission, when acting as an agent for its customers, a broker-dealer owes such customers a duty of best execution. See NYSE Rule 123A.41 which provides that a broker handling a market order is to use due diligence to execute the order at the best price or prices available under the published market procedures of the Exchange.

according to factors noted above, the NYSE concluded that the idea of prescribing industry-wide dollar amount standards was impracticable. A specific dollar threshold could not be established that would justifiably apply to all broker-dealers, taking into account variances in size and business model, and the range of customer types (e.g., investment banking, institutional, retail, and those with fiduciary obligations such as investment advisers and pension fund representatives).

Further, a uniform standard would give rise to unintended effects related to firm participation in, or sponsorship of, charitable events. There is also frequent linkage between education and entertainment that would likely become problematic. In many instances, firms combine legitimate educational functions with lodging, meals and entertainment, making it difficult to separate business expenses from entertainment expenses under a prescriptive regulatory scheme.

Thus, the Exchange is proposing a more flexible, principle-based approach that would require each firm to develop, within a prescribed regulatory framework, standards that are effective and appropriate for its business model that would be administered via procedures that are transparent and well documented.

#### *Outline of the Proposed Rule*

##### *General Prohibition*

Subsection (a) of proposed Rule 350A imposes the general prohibition that “no member organization or person associated with a member organization shall, directly or indirectly, provide any business entertainment to a customer representative pursuant to the establishment of, or during the course of, a business relationship with any customer that is intended or designed to cause, or would be reasonably judged to have the likely effect of causing, such customer representative to act in a manner that is inconsistent with: (1) The best interests of the customer or (2) the best interests of any person to whom the customer owes a fiduciary duty.”

The general nature of this prohibition recognizes that no rule of this type can identify and specifically address each and every potential conflict-of-interest scenario that may arise. Note, however, that the prohibition against provision of entertainment “directly or indirectly” is intended to prevent circumvention of the spirit of the rule. For instance, it would be a violation of the Rule if an associated person of a member organization were to either utilize his or her personal funds in an effort to evade

the dictates of the Rule, or to encourage an employee of a member organization subsidiary to provide entertainment on behalf of the member organization. Note also that the purpose of the proposed Rule is to address customer representative conflicts of interest that could adversely affect the customer. The Rule would not apply to business entertainment provided by an associated person directly to individual (natural person) customers or potential customers.

##### *Definition of Key Terms*

Proposed Rule 350A(b) defines the terms “customer,” “customer representative” and “business entertainment” as follows:

###### *“Customer”*

The term “customer” means “(1) A person<sup>6</sup> that maintains a business relationship with a member organization via the maintenance of an account, through the conduct of investment banking, or pursuant to other securities-related activity, or (2) a person whose customer representative receives business entertainment for the purpose of encouraging such person to establish a business relationship with a member organization by opening an account with the member organization or by conducting investment banking or other securities-related activity with the member organization.”

###### *“Customer Representative”*

The term “customer representative” means “a person who is an employee, officer, director, or agent of a customer, unless such person is a family member<sup>7</sup> of the customer.” The “family member” exemption is proposed to exclude instances where an individual has power of attorney over the account of a close family member’s account, such accounts opened under the Uniform Gifts to Minors Act or instances where a person exercises discretion over their spouse’s account. The Exchange does not believe such arrangements are likely to result in the types of conflicts the proposed rule is intended to address and their inclusion would thus constitute an undue regulatory burden on membership.

<sup>6</sup> NYSE Rule 2 defines the term “person” to mean “a natural person, corporation, partnership, association, joint stock company, trust, fund or any organized group of persons whether incorporated or not.”

<sup>7</sup> The term “family member” is defined as “a person’s parents, mother-in-law or father-in-law, spouse, brother or sister, brother-in-law or sister-in-law, son-in-law or daughter-in-law, and children.”

###### *“Business Entertainment”<sup>8</sup>*

The term “business entertainment” means “any social event, hospitality event, sporting event, entertainment event, meal, leisure activity, or event of like nature or purpose, including business entertainment offered in connection with a charitable event, educational event or business conference, as well as any transportation or lodging related to such activity or event, in which an associated person of a member organization accompanies a customer representative” (absent “exigent circumstances,” discussed below). Anything of value given or otherwise provided to a customer representative that does not fall within the definition of “business entertainment” is a gift subject to NYSE Rule 350 (“Compensation or Gratuities to Employees of Others”).

###### *“Associated Person”*

The terms “person associated with a member organization” or “associated person” are defined to include: (1) A natural person who is registered or has applied for registration under the Rules of the NYSE; (2) a sole proprietor, partner, officer, director, or branch manager of a member organization, or other natural person occupying a similar status or performing similar functions, or a natural person engaged in the investment banking or securities business who is directly or indirectly controlling or controlled by a member organization, whether or not any such person is registered or exempt from registration with the NYSE or NASD.

The Exchange has been asked about the extent to which the proposed rule change reaches business entertainment conducted outside the United States, particularly entertainment provided by persons who are employed in commonly controlled affiliates of a financial services company operating in the United States and/or foreign jurisdictions. As an initial matter, proposed Rule 350A reaches all business entertainment of a member organization and persons associated with a member organization, even if such entertainment occurs outside of the United States or is provided to foreign individuals. However, the Exchange does not believe that all persons who are employed in commonly controlled affiliates of a financial services company operating in the United States and/or foreign jurisdictions are necessarily associated persons of the member organization, even if they report to a person who, in

<sup>8</sup> See also sections titled “Exigent Circumstances” and “Valuation of Business Entertainment” below.



another capacity, is an associated person of a member organization.

An associated person of a member organization may have management and supervisory responsibilities for non-member affiliates of a financial services company, located within or outside of the United States, without the result that the persons being managed and supervised in the non-member affiliates would necessarily be deemed associated persons of the member organization. It is the view of the Exchange that in such instances the following factors establish that an employee of a non-member affiliate is not an associated person of the member organization: (1) The manager/supervisor of that employee is recognized in the member organization as having a scope of responsibilities outside of the member organization; (2) the exercise of the management and supervision over that employee by such manager/supervisor is not controlled by the member organization, is reviewable for purposes of performance and compensation outside of the member organization, and is not conducted for the benefit of the member organization; and (3) the employee of the non-member affiliate is not otherwise employed or engaged in the investment banking or securities business of the member organization or controlled by the member organization in respect of such activities.

#### Undefined Terms

Any term not specifically defined in Rule 350A shall have the meaning ascribed to it as otherwise defined or understood within the rules of the Exchange and the interpretations thereof.

#### Exigent Circumstances

As noted above, the definition of "business entertainment" generally prescribes that if a customer representative is not accompanied by an appropriate associated person of the member organization, any expenses associated with the business entertainment will be considered a gift under NYSE Rule 350. An exception to this requirement is proposed to address instances when exigent circumstances make it impractical for an associated person to attend a business entertainment event.<sup>9</sup> All instances where such exigent circumstances are invoked must be clearly and thoroughly documented and be subject to the prior written approval of a designated supervisory person or, in very limited circumstances where such prior approval cannot reasonably be obtained,

to a prompt post-event review to be conducted and documented by such supervisory person.

The Exchange believes that the "exigent circumstances" exception provides necessary flexibility in light of real-world, last minute emergency situations that could arise that would make it difficult, if not impossible, for an appropriate member organization associated person to attend a business entertainment event with a customer representative. Examples of exigent circumstances would be a sick child, an accident, or some other sudden overriding circumstance. The Exchange does not believe this provision would lead to circumvention of the spirit or substance of the proposed rule since all such occurrences are subject to detailed documentation such that any patterns of abuse would become quickly apparent to supervisory personnel.

#### Written Policies and Supervisory Procedures Required

Pursuant to the general directive of proposed Rule 350A(a), Rule 350A(c) would require that each member organization have written policies and supervisory procedures applicable to business entertainment that incorporate prescribed elements. The following prescribed elements, outlined under subsection (c)(1), are applicable to all member organizations except those with business expenses below \$7,500, which are subject only to subsection (c)(1)(D) and (c)(1)(E):<sup>10</sup>

(A) The policies and procedures must define forms of business entertainment that are "appropriate" and "inappropriate," using quantitative and/or qualitative standards that address the nature and frequency of the entertainment provided, as well as the type and class of any accommodations or transportation provided in connection with such business entertainment. This provision recognizes that, in order to establish meaningful standards that are enforceable, firms must have objective bases upon which to determine the appropriateness of business entertainment. It also recognizes that, given the wide range of broker-dealer business models, it is impractical to require a single, industry-wide set of standards. Further, by placing the responsibility on firm personnel to develop firm-specific standards has the benefit of fostering internal discussion and serious consideration of issues

related to the provision of business entertainment in both an ethical and practical context.

(B) The policies and procedures must make clear that anything of value given or otherwise provided to a customer representative that does not fall within the definition of "business entertainment" is a gift under NYSE Rule 350.

(C) The policies and procedures must impose either specific dollar limits on business entertainment or require prior written supervisory approval when such entertainment expenses will exceed certain specified dollar thresholds. This provision would require firms to make objective, "hard number" value determinations regarding generally acceptable levels of business entertainment. Not only would this approach have the benefit of establishing unambiguous standards, it would also encourage the self-comparison of such standards among firms of similar size and circumstance. This, in conjunction with feedback from regulatory organizations, would likely result in the establishment of "unofficial," but generally accepted industry standards over time.

(D) The policies and procedures must be designed to detect and prevent business entertainment that is intended as, or could reasonably be perceived to be intended as, an improper quid pro quo or that could otherwise give rise to a potential conflict of interest, or undermine the performance of a customer representative's duty to a customer or to any person to whom the customer owes a fiduciary duty. In addition to highlighting the core purpose of the Rule, this provision is intended to make clear that member organizations are expected to take a proactive approach with respect to potential violations of their business entertainment policy.

(E) The policies and procedures must establish standards to ensure that persons designated to supervise and administer the written policies and procedures are sufficiently qualified. Since the Rule does not prescribe exam qualifications or other standardized qualification requirements for supervisors or administrators of business entertainment policies and procedures, member organizations must formalize a process to ensure that informed determinations are made with regard to the ability of persons assigned such responsibilities.<sup>11</sup>

<sup>10</sup> See proposed Rule 350A(f) and section below entitled "Specific Exemptions for Member Organizations with Business Entertainment Expenses Below \$7,500."

<sup>11</sup> See NYSE Rule 345A(b). Note also that although Rule 350A, as proposed in Amendment No. 1, does not include a specific requirement that

<sup>9</sup> See Rule 350A(b)(4)(A).



(F) The policies and procedures must provide appropriate education and training to all personnel who supervise, administer, or are subject to the written policies and procedures prescribed by the proposed Rule. This provision is intended to ensure that all relevant personnel are familiar with, and have a clear understanding of, the firm's business entertainment policies and procedures. Such education and training could be provided as part of the "Firm Element" requirement of NYSE Rule 345A ("Continuing Education for Registered Persons").<sup>12</sup>

*Certain "Business Entertainment" Standards May Be Distinguished*

In addition to the above requirements, the proposed Rule<sup>13</sup> would make clear that the written policies and supervisory procedures may distinguish, and set specifically tailored standards for, business entertainment deemed to be primarily educational in nature or closely associated with a charitable event or philanthropic cause. This provision recognizes that certain types of events that could be characterized as business entertainment, or that include entertainment as an element, might serve a larger purpose than those strictly or primarily intended to solicit business. Any such standards to be utilized must be explicitly addressed in the member's organization policies and procedures, and must still comply with all requirements of the proposed Rule.

*Recordkeeping Requirements*

In order to ensure that expenses can be tracked and analyzed for potential improprieties, proposed Rule 350A(d) makes clear that each member organization's written policies and procedures must require maintenance of detailed records of business entertainment expense provided to any customer representative. Further, such policies and procedures must require that, upon a customer's written request, each member organization will promptly make available to a customer any records regarding business entertainment provided to customer representatives of that customer.

members test business entertainment policies and procedures, such policies and procedures are subject to NYSE Rule 342.23 which requires the development and maintenance of adequate controls over each business activity and the establishment of procedures for independent verification and testing of those business activities. Telephone call between Rebekah Liu, Special Counsel, Division of Market Regulation ("Division"), Commission, and Steve Kasprzak, Principal Counsel, NYSE, May 15, 2007.

<sup>12</sup> See NYSE Rule 345A(b).

<sup>13</sup> See Rule 350A(c)(2).

However, in order not to impose an undue regulatory burden, the proposed Rule includes an exemption to the recordkeeping requirement for de minimis or incidental expenses that would not reasonably be expected to influence the behavior of a customer representative. Specifically, records would not be required to be maintained for:

(1) Business entertainment when its total value, including all associated expenses, does not exceed \$50 per day (such as a \$45 dinner, or an inexpensive dinner and movie which, in the aggregate, cost less than \$50); or

(2) Additional expenses incurred in connection with otherwise recorded business entertainment that do not, in the aggregate, exceed \$50 per day (such as a hot dog and soda purchased at a professional sporting event where the cost of the ticket—presuming it is greater than \$50—has been duly recorded as a business entertainment expense).<sup>14</sup>

Each member organization's written policies and procedures must include provisions reasonably designed to prevent member organization associated persons from circumventing the recordkeeping requirements in contravention of the spirit and purpose of this rule (e.g., a pattern of providing a customer representative with business entertainment valued at \$48, or the disaggregation of events—such as a \$40 dinner followed by a \$40 sporting event—required by the Rule to be aggregated and recorded).

As discussed more fully below, the recordkeeping requirements of proposed Rule 350A(d) shall not apply to member organizations with annual business entertainment expenses below \$7,500.

*Valuation of Business Entertainment*

The definition of the term "business entertainment" states that each member organization's written policies and procedures must specify the methodology to be used by the member organization to calculate the value of business entertainment.<sup>15</sup> In general, business entertainment expenses should be valued at the higher of face value or cost to the member organization. Thus, if a theatre ticket with a face value of \$100 is obtained at a cost to the member organization of \$300, the ticket would be valued at the higher purchase price.

<sup>14</sup> Member organizations should be aware, however, that they may need to track such expenses under other NYSE or Commission rules.

<sup>15</sup> See Rule 350A(a)(4)(C).

*Provision of Business Entertainment Records to Customers/Notice Requirement*

Proposed Rule 350A(e) requires that each member organization's written policies and procedures provide that, upon a customer's written request, the member organization will promptly make available to the customer any business entertainment records regarding business entertainment provided any customer representative of that customer. Further, each member organization must have a system in place to give notice (e.g., via the member organization's Web site, a disclosure document, or other appropriate means) to customers that utilize customer representatives subject to this rule that, upon a customer's written request, the member organization will promptly provide such information. The Exchange notes that the "notice" provision will encourage the expansion of monitoring and controls on business entertainment beyond broker-dealers to the employers of business entertainment recipients.

*Application of Proposed Rule 350A*

*General Application*

Subsection (f)(1) makes clear that the proposed Rule does not apply to any member organization that does not engage in business entertainment. Thus, for example, if a member organization provides no business entertainment as defined by the proposed Rule, it would not be required to establish otherwise applicable policies and procedures. This subsection further clarifies that the proposed rule applies only with respect to business entertainment provided to customer representatives. Thus, as noted above, it would not be applicable to situations where a member organization directly provides business entertainment to natural person customers or potential natural person customers.<sup>16</sup>

*Specific Exemptions for Member Organizations With Business Entertainment Expenses Below \$7,500*

The concerns that the proposed rule seek to address are not presented by those member organizations that, in the aggregate, do not devote significant resources to business entertainment. Consequently, the proposed rule provides for a partial exemption, under subsection (f)(2), for those member organizations with annual business entertainment expenses below \$7,500.

<sup>16</sup> Telephone call between Steve Kuan, Special Counsel, Division, Commission, and Steve Kasprzak, Principal Counsel, NYSE, May 7, 2007.

The provision prescribes that the \$7,500 ceiling be measured on a fiscal year basis. Each member organization that relies on the exemption must evidence that its business entertainment expenses are below the threshold.

Specifically, member organizations below the \$7,500 threshold would be exempt from the written "Policies and Procedures" provisions of proposed Rule 350A(c)(1) except for subsections (D) and (E). Subsection (D) requires written policies and procedures to detect and prevent business entertainment that is intended as, or could reasonably be perceived to be intended as, an improper quid pro quo or that could otherwise give rise to a potential conflict of interest, or undermine the performance of a customer representative's duty to a customer or to any person to whom the customer owes a fiduciary duty. Subsection (E) requires the establishment of standards to ensure that persons designated to supervise and administer the written policies and procedures are sufficiently qualified.

Member organizations below the \$7,500 threshold would also be exempt from the prescribed recordkeeping provisions of proposed Rule 350A(d). As noted above, however, member organizations must be able to evidence that its business entertainment expenses were below the threshold over the course of their fiscal year.

In addition, member organizations below the \$7,500 threshold would be exempt from the requirement, under Rule 350A(e) to have a system in place to give notice (e.g., via a website, disclosure document, or other appropriate means) to customers that utilize customer representatives that, upon a customer's written request, the member organization will promptly provide detailed information regarding the manner and expense of any business entertainment provided to their customer representatives by such member organization.

Note that member organizations that avail themselves of the specified exemptions under proposed subsection (f)(2) would still be fully subject to proposed Rule 350A(a) which imposes the general prohibition that "no member organization or person associated with a member organization shall, directly or indirectly, provide any business entertainment to a customer representative pursuant to the establishment of, or during the course of, a business relationship with any customer that is intended or designed to cause, or would be reasonably judged to have the likely effect of causing, such customer representative to act in a

manner that is inconsistent with: (1) The best interests of the customer or (2) the best interests of any person to whom the customer owes a fiduciary duty."

#### *Interpretive Guidance/Practical Criteria*

As discussed above, required written policies and procedures addressing business entertainment must include criteria that the member organization will utilize to evaluate the propriety of business entertainment in various contexts. Although not included in the Rule text itself, the Exchange intends to include in an Information Memo released in conjunction with the approval of proposed Rule 350A the following factors to be considered when establishing such criteria:

#### *With Respect to the Entertainment*

(a) Whether the nature, cost, or extent of the entertainment could reasonably give rise to an actual or perceived conflict of interest, or encourage a quid pro quo business transaction;

(b) Whether the nature, cost, and extent of the entertainment is consistent with the nature of the business relationship and the relationship of the parties involved;

(c) Whether the provision of any transportation, lodging, or other accommodations is appropriate;

(d) Whether the entertainment would be considered usual and customary within the industry;

(e) Whether the cost of the entertainment is consistent with the location (city and/or establishment) in which the entertainment takes place;

(f) Whether the entertainment extends to the client's spouse or to guests of the client;

(g) Whether the entertainment might otherwise reasonably be perceived to be improper.

#### *With Respect to the Client*

(a) Whether the recipient of the entertainment has fiduciary duties (e.g., to a public company, a state, or a municipality) that may give rise to specific legal or ethical considerations;

(b) The frequency of entertainment provided to the client;

(c) The frequency of firm contact with the client in the ordinary course of business.

#### *With Respect to the Business Purpose*

(a) Whether the entertainment is in recognition of a completed deal;

(b) Whether the entertainment is educational/philanthropic in nature, or strictly recreational.

In closing, the Exchange believes that the proposed Rule is an effective and practical approach to address the

conflict-of-interest issues related to business entertainment, therefore approval of the proposal is requested. The Exchange further requests an effective date of 6 months from approval in order to give membership sufficient time to sufficiently upgrade systems and develop procedures to effectively comply with the Rule's requirements. The Exchange will announce the effective date in an Information Memo.

## **2. Statutory Basis**

The proposed rule change is consistent with Section 6 of the Act,<sup>17</sup> in general, and furthers the objectives of Section 6(b)(5),<sup>18</sup> in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and national market system, and in general, to protect investors and the public interest. The Exchange believes the proposed amendments are consistent with this section in that they permit firms to develop and maintain business relationships while requiring controls that mitigate potential conflicts of interest that can arise in such relationships.

### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

The Exchange has neither solicited nor received written comments on the proposed rule change.

## **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which NYSE consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

<sup>17</sup> 15 U.S.C. 78f.

<sup>18</sup> 15 U.S.C. 78f(b)(5).

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

The Commission notes that the NYSE's proposed Rule 350A(e) provides that the NYSE member organization must have a system in place to give notice (e.g., via the member organization's Web site, a disclosure document, or other appropriate means) to customers that use customer representatives that upon a customer's written request, the NYSE member will provide detailed information regarding the manner and expense of any business entertainment provided by the NYSE member to the customer representative,<sup>19</sup> while the NASD's proposal does not contain a similar notice provision.<sup>20</sup> The Commission is soliciting comment on this difference between the NYSE and NASD proposed rules and specifically whether NASD should have a similar notification provision for customers utilizing customer representatives.

Comments may be submitted by any of the following methods:

##### *Electronic Comments*

- Use the Commission's Internet comment form ([www.sec.gov/rules/sro.shtml](http://www.sec.gov/rules/sro.shtml)); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSE-2006-06 on the subject line.

##### *Paper Comments*

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSE-2006-06. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site ([www.sec.gov/rules/sro.shtml](http://www.sec.gov/rules/sro.shtml)). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the

proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSE-2006-06 and should be submitted on or before June 11, 2007. For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>21</sup>

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E7-9668 Filed 5-18-07; 8:45 am]

BILLING CODE 8010-01-P

#### SOCIAL SECURITY ADMINISTRATION

##### Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages that will require clearance by the Office of Management and Budget (OMB) in compliance with Pub. L. 104-13, the Paperwork Reduction Act of 1995, effective October 1, 1995. The information collection packages that may be included in this notice are for new information collections, approval of existing information collections, revisions to OMB-approved information collections, and extensions (no change) of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Written comments and recommendations regarding the information collection(s) should be submitted to the OMB Desk Officer and the SSA Reports Clearance Officer. The information can be mailed, faxed or e-mailed to the individuals at the addresses and fax numbers listed below:

(OMB), Office of Management and Budget, Attn: Desk Officer for SSA. Fax: 202-395-6974. E-mail address: [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov). (SSA), Social Security Administration, DCFAM, Attn: Reports Clearance Officer, 1333 Annex Building, 6401 Security Blvd., Baltimore, MD 21235. Fax: 410-965-6400. E-mail address: [OPLM.RCO@ssa.gov](mailto:OPLM.RCO@ssa.gov).

I. The information collections listed below are pending at SSA and will be submitted to OMB within 60 days from the date of this notice. Therefore, your comments should be submitted to SSA within 60 days from the date of this publication. You can obtain copies of the collection instruments by calling the SSA Reports Clearance Officer at 410-965-0454 or by writing to the address listed above.

##### 1. eData Registration/Account Modification—20 CFR 401.45—0960-NEW

##### *Collection Background*

Section 5 U.S.C. 552a, (e)(10) of the Privacy Act of 1974 requires agencies to establish appropriate administrative, technical, and physical safeguards to ensure the security and confidentiality of records. Also, Section (f)(2) & (3) requires agencies to establish requirements for identifying an individual who requests a record or information pertaining to that individual and to establish procedures for disclosure of personal information. SSA promulgated Privacy Act rules in the Code of Federal Regulations, Subpart B. Procedures for verifying identity are at 20 CFR 401.45.

##### *Collection Description*

The eData Services Web site allows various external organizations to submit files to a variety of SSA systems and in some cases receive return files. The users include State/local government agencies, other Federal agencies, and some nongovernmental business entities. The SSA systems that process data transferred via eData include, but are not limited to, systems responsible for disability processing and benefit determination or termination. The information collected on form SSA-118 (Government to Government Services Online Web site Registration Form) to register organizations is used exclusively to maintain the identity of the requester within eData. The requestor is already a known entity to a sponsor within SSA. The SSA sponsor completes the registration forms and the information is submitted to SSA's User Interface Team (UIT). Once this is completed, SSA provides the requestor

<sup>19</sup> As noted above, according to the Exchange the notice provision will encourage the expansion of monitoring and controls on business entertainment beyond broker-dealers to the employers of business entertainment recipients.

<sup>20</sup> See *infra* footnote 3.

<sup>21</sup> 17 CFR 200.30-3(a)(12).

with their new password, and conducts a walkthrough of the eData website as necessary. The organization also can make modifications to their online

account (e.g., address change) by completing an online form, SSA-119 (Government to Government Service

Online Web site Account Modification/Deletion Form).

*Type of Request:* Collection in use without OMB Control Number.

Collection instrument	Number of annual respondents	Frequency of response	Average burden per response (minutes)	Estimated annual burden hours
SSA-118 .....	925	1	15	231
SSA-119 .....	1,575	1	15	394
Totals .....	2,500	.....	.....	625

## 2. Certificate of Election for Reduced Widow(er)'s Benefits—20 CFR, Subpart D, 404.335—0960-NEW

Section 202(q) of the Social Security Act provides for the authority to reduce benefits under certain conditions when elected by a beneficiary. However, reduced benefits are not payable to an already entitled spouse (or divorced spouse) who:

- Is at least age 62 and under full retirement age in the month of the number holder's death; and
- Is receiving both reduced spouse's (or divorced spouse's) benefits and either retirement or disability benefits in the month before the month of the number holder's death.

In order to elect reduced widow(er) benefits, a beneficiary must complete form SSA-4111. SSA uses the information collected on Form SSA-4111 to determine eligibility for and pay a qualified dually entitled widow(er) (or surviving divorced spouse) reduced benefits. The respondents are qualified dually entitled widow(er)s (or surviving divorced spouse) who elect to receive a reduced widow(er) benefit.

*Type of Request:* Collection in use without OMB Control Number.

*Number of Respondents:* 30,000.

*Frequency of Response:* 1.

*Average Burden Per Response:* 2 minutes.

*Estimated Annual Burden:* 1,000 hours.

## 3. Proof of Age Study—20 CFR 404.715—0960-NEW

### Background

Through the information obtained from this study, the Agency hopes to obtain data that will allow benefit award processes to be streamlined in anticipation of the significant workload increases as the "baby boomers" (those persons born between 1946 and 1964) attain retirement age. The information collected will be used to determine the extent to which a claimant's allegation of date of birth agrees with the date of birth in SSA's records and to estimate the program costs associated with using alleged dates of birth as proof of age (POA) to adjudicate claims without obtaining birth certificates or other evidence of age or citizenship.

### Collection of Information

SSA will mail up to 3,000 appointment letters to a random sample of number holders (NH) with the expectation of being able to arrange 2,000 one-time telephone interviews. (Some letters will be returned for no address or there will be no response from the NHs.)

Appointment letters will be sent to the NHs to explain the purpose of the study; request a phone number; and establish a convenient time to conduct the phone interview.

The phone interviewers will obtain an alleged date of birth, place of birth, and parent's names. If the NH's alleged date of birth agrees with the Numident date of birth, SSA will obtain POA (birth certificates if available) from the custodians to determine the impact of using the alleged date as POA. If the alleged date of birth is materially different than the date of birth on the Numident, POA evidence will not be obtained from the custodian. If a birth certificate is obtained a proof code will be annotated to the Numident to prevent unnecessary development if subsequently a claim is filed on the account. If the POA development establishes a different date of birth than the Numident/alleged date of birth, SSA will estimate the potential error dollars involved. Study data will be compiled and findings reported to SSA's Executive Staff.

*Type of Request:* New information collection.

*Number of Respondents:* 2,000.

*Estimated Annual Burden:* 1,334 hours.

Form name	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated annual burden (hours)
Appointment Letter and Response .....	2,000	1	15	500
SSA-8510 (Authorization to the SSA to Obtain Personal Information) .....	2,000	1	5	167
Phone Questionnaire .....	2,000	1	20	667
Collection of POA Evidence from Record Custodian .....	152	2	15	490
Total .....	6052	.....	.....	1,824

<sup>1</sup> 1960 total responses

<sup>2</sup> Varies.

II. The information collections listed below have been submitted to OMB for clearance. Your comments on the information collections would be most

useful if received by OMB and SSA within 30 days from the date of this publication. You can obtain a copy of the OMB clearance packages by calling

the SSA Reports Clearance Officer at 410-965-0454 or by writing to the address listed above.

## 1. SSI Monthly Wage Reporting System—20 CFR 416.701–732—0960–0715

### Collection Background

SSI recipients are required to report changes in their income, resources and living arrangements that may affect eligibility or payment amount. Currently, SSI recipients report changes on Form SSA–8150, Reporting Events—SSI, or to an SSA teleservice representative through SSA's toll-free telephone number, or they visit their local Social Security office.

Wages have, historically, been the source of SSI's highest error rate largely due to non-reporting by beneficiaries, deemors, and representative payees. Failure to report changes in wages timely accounts for approximately \$400 million in overpayments each year. Consequently, SSA is evaluating methods for increasing reporting. SSA has tested and determined that given an easily accessible automated format, individuals will increase compliance with reporting responsibilities. Increased timely reporting has resulted in a decrease in improper payments. One of the methods tested, described below, is the SSI Wage Reporting System.

### Collection Description

Participants who need to report a change in monthly wages (Comment: There are other forms of earned income that the phone line does not support) will call SSA's toll-free telephone number to report the change. The participants will access SSA's system using knowledge-based authentication (providing name, SSN and date of birth). Participants will speak their report (voice recognition technology) and/or key in the information using the telephone key pad. This automated system will then directly update our records and issue receipts in compliance with Section 202 of the Social Security Protection Act of 2004.

We are requesting permanent authorization of the existing wage reporting system to continue providing an alternative, and more efficient, means by which beneficiaries, their representative payees, and deemors can report wages via a toll-free telephone number. We believe this permanent authorization is necessary to effectively implement national usage of the system and substantially increase the number of reports received via this collection method. Without permanent authorization, we are concerned that an interruption in reporting would prove detrimental to our earlier efforts to recruit and train reporters, would

damage the current regularity of reporting, and would considerably mitigate SSA's potential to reduce improper payments resulting from erroneous, or deficient, wage reports. Respondents to this collection are SSI recipients, deemors and representative payees of recipients who agree to participate in the program.

*Type of Request:* Revision of OMB approval.

*Number of Respondents:* 50,000.

*Frequency of Response:* 12.

*Average Burden Per Response:* 4 minutes.

*Estimated Annual Burden:* 40,000 hours.

## 2. Cost Reimbursable Research Request—0960–NEW

### Background

The Social Security Administration (SSA) is responsible for administering two cash benefit programs, notably the Old-Age, Survivors, and Disability Insurance (OASDI) and SSI programs. To carry out this task, SSA maintains a number of files with detailed information on individuals and their characteristics, such as demographics, employment, earnings, assets, disability diagnosis, location, and other information. While designed for SSA to carry out its administrative tasks, the data files offer great informational depth to researchers interested in SSA's programs and other research areas. As a result, SSA provides qualified researchers needing agency administrative data for a variety of projects.

SSA's data files are governed by strict confidentiality restrictions and are not publicly accessible. Therefore, SSA has charged the Office of Research, Evaluation, and Statistics (ORES) as the primary interface for researchers, either within SSA or outside of it, who seek access to SSA's program files. To safeguard the information and the public trust, ORES has established comprehensive unified application process procedures for obtaining program data for research use.

### The Cost Reimbursable Research Request

To request SSA program data for research, the researcher must submit a completed research application for SSA's evaluation. In the application, the requesting researcher must provide required basic project information and describe the way in which the proposed project will further SSA's mission to promote the economic security of the nation's people through its administration of the OASDI programs,

and/or the SSI program. Depending on the type of research data needed, the requesting researchers may be required to provide SSA with up to 14 prescribed project information elements to properly assess their data request.

Once the application is reviewed and approved by ORES, a Reimbursable Conditions of Use Agreement is signed with the requestor which outlines the conditions and safeguards agreed to for the research project data exchange. The requestor may use the data for research and statistical purposes only. This is a reimbursable service and SSA recovers all expenses incurred in providing this information. The respondents to this information collection are the qualified researchers that request SSA administrative data for a variety of projects. These applicants include but are not limited to Federal and State government agencies and/or their contractors, private entities, and colleges/universities.

*Type of Request:* Collection in use without OMB Control Number.

*Number of Respondents:* 15.

*Frequency of Response:* 1.

*Average Burden per Response:* 240 minutes.

*Estimated Annual Burden:* 60 hours.

The total average annual cost for all respondents to use this service is approximately \$112,500 or an average of \$7,500 to complete a single request. This cost projection is an estimate of SSA's administrative and systems costs to analyze and provide the requested research data. Since this is a reimbursable service, all associated costs are borne by the requesters.

## 3. Authorization To Release Medical Report to Physician—20 CFR 401.55 & 401.100—0960–NEW

If the claimant, his or her court appointed representative, or a parent of a minor child wants the consultative examination (CE) report sent to the claimant's treating physician, he or she will complete the information requested on Form SSA–91 and send it to SSA for processing. SSA will use the information collected to send the CE report to the authorized physician. Respondents are applicants for disability claims.

*Type of Request:* Collection in Use Without an OMB Number.

*Number of Respondents:* 7,922.

*Frequency of Response:* 1.

*Average Burden Per Response:* 5 minutes.

*Estimated Annual Burden:* 660 hours.

#### 4. Claimant Travel Reimbursement Request—20 CFR 404.999a-d—0960-NEW

The claimants have the right to be reimbursed for their travel expenses to and from a consultative examination (CE). In order to be reimbursed, the claimants must submit an itemized list of what they spent to travel round trip to the CE. The SSA-104 is sent to the claimants with the CE appointment notice. If the claimants want to be reimbursed for their travel expenses, they must complete, sign and return the SSA-104 to SSA. SSA uses the information collected on this form to determine the amount of reimbursement. Respondents are applicants for disability claims.

*Type of Request:* Collection in Use without an OMB Number.

*Number of Respondents:* 11,092.

*Frequency of Response:* 1.

*Average Burden Per Response:* 10 minutes.

*Estimated Annual Burden:* 1,849 hours.

Dated: May 15, 2007.

**Elizabeth A. Davidson,**

*Reports Clearance Officer, Social Security Administration.*

[FR Doc. E7-9712 Filed 5-18-07; 8:45 am]

**BILLING CODE 4191-02-P**

#### SOCIAL SECURITY ADMINISTRATION

##### Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages that will require clearance by the Office of Management and Budget (OMB) in compliance with Pub. L. 104-13, the Paperwork Reduction Act of 1995, effective October 1, 1995. The information collection packages that included in this notice are for new information collections and revisions to existing OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Written comments and recommendations regarding the information collection(s) should be submitted to the OMB Desk Officer and the SSA Reports Clearance Officer. The information can be mailed, faxed or emailed to the individuals at the addresses and fax numbers listed below:

(OMB), Office of Management and Budget, Attn: Desk Officer for SSA.  
Fax: 202-395-6974. E-mail address: [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov).  
(SSA), Social Security Administration, DCFAM, Attn: Reports Clearance Officer, 1333 Annex Building, 6401

Security Blvd., Baltimore, MD 21235.  
Fax: 410-965-6400. E-mail address: [OPLM.RCO@ssa.gov](mailto:OPLM.RCO@ssa.gov).

I. The information collection listed below is pending at SSA and will be submitted to OMB within 60 days from the date of this notice. Therefore, your comments should be submitted to SSA within 60 days from the date of this publication. You can obtain copies of the collection instrument by calling the SSA Reports Clearance Officer at 410-965-0454 or by writing to the address listed above.

*Medicare Quality Review Forms—20 CFR 418(b)(5)—0960-0707.* The Social Security Administration (SSA) uses the Medicare Quality Review Forms collection to verify the information reported on Medicare Part D Subsidy applications (OMB No. 0960-0696) for a selected number of applicants. SSA is planning to expand the scope of this collection by conducting Quality Reviews with some current recipients of Medicare Part D subsidies who have recently undergone the redetermination process (OMB No. 0960-0723). This ICR is for two new appointment letters (forms SSA-9313 and SSA-9314) that such beneficiaries will complete to schedule an appointment for their Quality Review. The respondents are current recipients of Medicare Part D subsidies who have recently undergone a redetermination and who were selected for a Quality Review.

*Type of Request:* Revision to an existing OMB-approved information collection.

Form number and name	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated annual burden (hours)
SSA-9301 (Medicare Subsidy Quality Review Case Analysis Questionnaire)	10,000	1	35	5,833
SSA-9302 (Notice of Quality Review Acknowledgement Form for those with Phones)	10,000	1	15	2,500
SSA-9303 (Notice of Quality Review Acknowledgement Form for those without Phones)	1,000	1	15	250
SSA-9304 (Checklist of Required Information; burden accounted for with forms SSA-9302, SSA-9303).				
SSA-9308 (Request for Information)	20,000	1	15	5,000
SSA-9310 (Request for Documents)	10,000	1	5	833
SSA-9309 (Life Insurance Verification Form)	8,000	1	15	2,000
SSA-8510 (Authorization to the Social Security Administration to Obtain Personal Information)	10,000	1	5	833
SSA-9313 (Notice of Appointment Quality Review Acknowledgement Form)*	4,500	1	15	1,125
SSA-9314 (Notice of Quality Review Acknowledgement Form (unknown phone numbers))*	500	1	15	125
Total				18,499

\* These are the two new forms being cleared in the current ICR for this collection.

II. The information collection listed below has been submitted to OMB for

clearance. Your comments on the information collection would be most

useful if received by OMB and SSA within 30 days from the date of this

publication. You can obtain a copy of the OMB clearance package by calling the SSA Reports Clearance Officer at 410-965-0454, or by writing to the address listed above.

**Electronic Records Express—0960—NEW.** Electronic Records Express (ERE) is a new Internet-based platform which facilitates the electronic submission of medical and school records needed for the disability process. These records are currently mailed as hard paper copies to SSA and state Disability Determination Services (DDSs) under the aegis of OMB No. 0960-0555, the Clearance of Information Collections Conducted by State Disability Determination Services on Behalf of SSA. While SSA and the DDSs will continue to accept paper copies, ERE offers respondents the opportunity to submit these records electronically. The revised burden for the actual document submission will continue to be covered under 0960-0555; this new collection covers the ERE registration and user training process. The respondents are medical providers and school professionals who submit information to SSA on behalf of disability applicants or beneficiaries.

**Type of Request:** New information collection.

**Number of Respondents:** 20,000.

**Frequency of Response:** 1.

**Average Burden Per Response:** 5 minutes.

**Estimated Annual Burden:** 1,667 hours.

Dated: May 15, 2007.

**Elizabeth A. Davidson,**

*Reports Clearance Officer, Social Security Administration.*

[FR Doc. E7-9726 Filed 5-18-07; 8:45 am]

**BILLING CODE 4191-02-P**

## DEPARTMENT OF STATE

[Public Notice: 5799]

### 60-Day Notice of Proposed Information Collection: DS-156, Nonimmigrant Visa Application, OMB Control Number 1405-0018

**ACTION:** Notice of request for public comments.

**SUMMARY:** The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995.

• **Title of Information Collection:** Nonimmigrant Visa Application.

- **OMB Control Number:** 1405-0018.
- **Type of Request:** Extension of a Currently Approved Collection.
- **Originating Office:** Bureau of Consular Affairs (CA/VO).
- **Form Number:** DS-156.
- **Respondents:** Nonimmigrant visa applicants.
- **Estimated Number of Respondents:** 12,000,000.
- **Estimated Number of Responses:** 12,000,000.
- **Average Hours Per Response:** 1 hour.
- **Total Estimated Burden:** 12,000,000 hours per year.
- **Frequency:** Once per respondent.
- **Obligation to Respond:** Required to Obtain or Retain a Benefit.

**DATES:** The Department will accept comments from the public up to 60 days from May 21, 2007.

**ADDRESSES:** You may submit comments by any of the following methods:

- E-mail: [VisaRegs@state.gov](mailto:VisaRegs@state.gov) (Subject line must read DS-156 Reauthorization).
- Mail (paper, disk, or CD-ROM submissions): Chief, Legislation and Regulation Division, Visa Services—DS-156 Reauthorization, 2401 E Street, NW., Washington DC 20520-30106.

You must include the DS form number (if applicable), information collection title, and OMB control number in any correspondence.

#### FOR FURTHER INFORMATION CONTACT:

Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed information collection and supporting documents, to Lauren Prosnik of the Office of Visa Services, U.S. Department of State, 2401 E Street, NW., L-603, Washington, DC 20522, who may be reached at (202) 663-2951 or [prosnikla@state.gov](mailto:prosnikla@state.gov).

**SUPPLEMENTARY INFORMATION:** We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper performance of our functions.
- Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of technology.

**Abstract of proposed collection:**

Form DS-156 is completed by aliens seeking nonimmigrant visas to the U.S. The Department will use the DS-156 to

elicit information necessary to determine an applicant's visa eligibility.

#### Methodology:

The DS-156 is completed by applicants online or, in exceptional circumstances, applicants may submit a paper application to posts abroad. The applicant prints the application and a 2-D barcode. When the applicant appears at the interview the barcode is scanned and the information electronically received.

Dated: April 23, 2007.

**Stephen A. Edson,**

*Deputy Assistant Secretary, Bureau of Consular Affairs, Department of State.*

[FR Doc. E7-9746 Filed 5-18-07; 8:45 am]

**BILLING CODE 4710-06-P**

## DEPARTMENT OF STATE

[Public Notice 5800]

### Determination and Certification Under Section 40A of the Arms Export Control Act

Pursuant to section 40A of the Arms Export Control Act (22 U.S.C. 2781), and Executive Order 11958, as amended, I hereby determine and certify to the Congress that the following countries are not cooperating fully with United States antiterrorism efforts: Cuba, Iran, North Korea, Syria, Venezuela.

This determination and certification shall be transmitted to the Congress and published in the **Federal Register**.

Dated: May 14, 2007.

**John D. Negroponte,**

*Deputy Secretary of State, Department of State.*

[FR Doc. E7-9727 Filed 5-18-07; 8:45 am]

**BILLING CODE 4710-10-P**

## DEPARTMENT OF STATE

[Delegation of Authority 301]

### Delegation by the Secretary of State to Henrietta Fore Authorities Normally Vested in the Director of Foreign Assistance

By virtue of the authority vested in me as Secretary of State by the laws of the United States, including the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2151 *et seq.*), Executive Order 12163 of September 29, 1979, as amended (44 FR 56673), the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601) the United Nations Participation Act of 1945, as amended (22 U.S.C. 287 *et seq.*) Executive Order 10206 of January 19, 1951, the President's Memorandum Delegation of Authority dated February 16, 1995, the

Arms Export Act as amended (22 U.S.C. 2751 *et seq.*), Executive Order 11958 of January 18, 1977, and Section 1 of the State Departments Basic Authorities Act. As amended (22 U.S.C. 2651a), I hereby delegate to Henrietta H. Fore, to the extent authorized by law, as functions that have been or may be delegated to the Director of Foreign Assistance.

Any authority of function covered by this delegation of authority may also be exercised by the Secretary or the Deputy Secretary.

Any act, executive order, regulation, or procedure subject to or affected by, this delegation of authority shall be deemed to be such act, executive order, regulation, or procedure as amended from time to time.

This delegation of authority shall expire upon the designation of an individual to serve as the Director of Foreign Assistance.

This delegation of authority shall be published in the **Federal Register**.

Dated: May 10, 2007.

**Condoleezza Rice,**

*Secretary of State, Department of State.*

[FR Doc. E7-9725 Filed 5-18-07; 8:45 am]

**BILLING CODE 4710-10-P**

## DEPARTMENT OF STATE

### [Delegation of Authority 302]

#### **Delegation by the Secretary of State to Maura Harty of Authorities Normally Vested in the Under Secretary for Management**

By virtue of the authority vested in me as Secretary of State by the laws of the United States, including, Section 1 of the State Departments Basic Authorities Act. As amended (22 U.S.C. 2651a), I hereby delegate to Maura A. Harty, to the extent authorized by law, all authorities that have been or may be delegated to the Under Secretary for Management.

Any authority covered by this delegation may also be exercised by the Secretary, the Deputy Secretary, or the Under Secretary for Management.

Any act, executive order, regulation, or procedure subject to or affected by, this delegation of authority shall be deemed to be such act, executive order, regulation, or procedure as amended from time to time.

This delegation shall expire upon the appointment and entry upon duty of an individual to replace Henrietta H. Fore as the Under Secretary of State for Management.

This delegation of authority shall be published in the **Federal Register**.

Dated: May 10, 2007.

**Condoleezza Rice,**

*Secretary of State, Department of State.*

[FR Doc. E7-9761 Filed 5-18-07; 8:45 am]

**BILLING CODE 4710-10-P**

## DEPARTMENT OF STATE

### [Public Notice 5798]

#### **United States Climate Change Science Program**

The United States Climate Change Science Program requests expert review of the fourth and final volume of the Intergovernmental Panel on Climate Change (IPCC) Fourth Assessment Report ("Climate Change 2007: Synthesis Report").

The IPCC was established by the United Nations Environment Programme (UNEP) and the World Meteorological Organization (WMO) in 1988. In accordance with its mandate and as reaffirmed in various decisions by the Panel, the major activity of the IPCC is to prepare comprehensive and up-to-date assessments of policy-relevant scientific, technical, and socio-economic information for understanding the scientific basis of climate change, potential impacts, and options for mitigation and adaptation. The First Assessment Report was completed in 1990, the Second Assessment Report in 1995, and the Third Assessment Report in 2001. Three working group volumes and a synthesis report comprise the Fourth Assessment Report. Working Group I assesses the scientific aspects of the climate system and climate change; Working Group II assesses the vulnerability of socio-economic and natural systems to climate change, potential negative and positive consequences, and options for adapting to it; and Working Group III assesses options for limiting greenhouse gas emissions and otherwise mitigating climate change. So far in 2007, all three working groups have had their contributions to the Fourth Assessment Report accepted by the Panel. These assessments were based upon the peer-reviewed literature and have been characterized by an extensive and open review process involving both scientific/technical experts and governments before being accepted by the IPCC.

The IPCC Secretariat has informed the U.S. Department of State that the second-order draft of the Synthesis Report of the Fourth Assessment Report is available for Expert and Government Review. This volume is composed of a Summary for Policymakers and an underlying report, integrating

materials—in a non-technical fashion—contained within the three working group contributions to the Fourth Assessment Report.

The Climate Change Science Program Office (CCSPO) is coordinating collection of U.S. expert comments and the review of this collations by panels of Federal scientists and program managers to develop a consolidated U.S. Government submission. Instructions on how to format comments are available at <http://www.climatechange.gov/Library/ipcc/syr4ar-review.htm>, as is the document itself and other supporting materials. Comments must be sent to CCSPO by 27 June 2007 to be considered for inclusion in the U.S. Government collation. Comments submitted for consideration as part of the U.S. Government Review should be reserved for that purpose, and not also sent to the IPCC Secretariat as a discrete set of expert comments.

Properly formatted comments should be sent to CCSPO at SYR-4AR-USGreview@climatechange.gov by COB Wednesday, 27 June 2007. Include report acronym and reviewer surname in e-mail subject title to facilitate processing.

For further information, please contact David Dokken, U.S. Climate Change Science Program, Suite 250, 1717 Pennsylvania Ave, NW., Washington, DC 20006 (<http://www.climatechange.gov>).

Dated: May 14, 2007.

**Drew Nelson,**

*Acting Office Director, Office of Global Change, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State.*

[FR Doc. E7-9752 Filed 5-18-07; 8:45 am]

**BILLING CODE 4710-09-P**

## DEPARTMENT OF TRANSPORTATION

#### **Office of Small and Disadvantaged Business Utilization; Solicitation of Applications for Regional Small Business Transportation Resource Centers (SBTRCs) Fiscal Year (FY) 2007, Grant Opportunity**

**AGENCY:** Office of Small and Disadvantaged Business Utilization (OSDBU), DOT.

**ACTION:** Notice.

**SUMMARY:** OSDBU announces that it has published an opportunity to apply for the FY 2007 Small Business Transportation Business Resource Center funding on the grants.gov Web site (<http://www.grants.gov>). Section 4134 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act:



OSDBU is responsible for the implementation and execution of the Department of Transportation (DOT) activities on behalf of small businesses in accordance with Section 8, 15 and 31 of the Small Business Act (SBA), as amended. The OSDBU also administers the provisions of Title 49, the Minority Resource Center (MRC) which includes the duties of advocacy, outreach and financial services on behalf of small and disadvantaged business and those certified under CFR 49 parts 23 and or 26 as Disadvantaged Business Enterprises (DBE). This request solicits competitive proposals from business centered community-based organizations, transportation-related trade associations, colleges and universities, community colleges or chambers of commerce for participation in OSDBU's Small Business Transportation Resource Centers (SBTRC) under the Minority Resource Center (MRC) program.

OSDBU will enter into Cooperative Agreements with these organizations to outreach to the small business community in their designated region and provide financial and technical assistance, business training programs such as, business assessment, management training, counseling, technical assistance, marketing and outreach, and the dissemination of information, to encourage and assist small businesses to become better prepared to compete for, obtain, and manage DOT funded transportation-related contracts and subcontracts at the Federal, State and local levels. Eligible applicants must be registered with the Internal Revenue Service as 501 C(6) or 501 C(3) tax-exempt organizations.

To apply for funding, applicants must be registered with grants.gov. Registration with grants.gov may take two to five days before the system will allow you to apply for grants using the grants.gov Web site [http://www.grants.gov/applicants/get\\_registered.jsp](http://www.grants.gov/applicants/get_registered.jsp). Submit application in accordance with the instructions provided. Applications for grant funding must be submitted electronically to OSDBU through the grants.gov Web site.

**DATES:** Proposals must be submitted to Grants.gov by June 15, 2007, 4 p.m. Eastern Standard Time. Proposals received after the deadline will be considered non-responsive and will not be reviewed.

**FOR FURTHER INFORMATION CONTACT:** Mr. Art Jackson, U.S. Department of Transportation, Office of Small and Disadvantaged Business Utilization, 400 7th Street, SW., Room 9414,

Washington, DC 20590, Tel. 202-366-1930 or 800-532-1169. Office hours are from 9 a.m. to 5 p.m., EST., Monday through Friday, except Federal holidays.

Issued on: May 15, 2007.

**Denise Rodriguez-Lopez,**

*Director, Office of Small and Disadvantaged Business Utilization (OSDBU).*

[FR Doc. E7-9692 Filed 5-18-07; 8:45 am]

**BILLING CODE 4910-9X-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Ninth Meeting: RTCA Special Committee 206/EUROCAE WG 76 Plenary

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of RTCA Special Committee 206 meeting.

**SUMMARY:** The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 206: Aeronautical Information Services Data Link.

**DATES:** The meeting will be held June 11-15, 2007 from 9 a.m. to 5 p.m.

**ADDRESSES:** The meeting will be held at Grand Hotel Tyska torget 2, Box 1152, 600 41 Norrköping, Sweden.

**FOR FURTHER INFORMATION CONTACT:** (1) RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036-5133; telephone (202) 833-9339; fax (202) 833-9434; Web site <http://www.rtca.org>; (2) Hosted by LFV Group—Swedish Airports and Air Navigation Services; Onsite Contact: telephone +46-11-36401; Web site: <http://www.grandhotel.elite.se>, e-mail: [info.grandhotel@elite.se](mailto:info.grandhotel@elite.se); (3) Contact Person: Roger Li, Vikoplan 11, S-601 79 Norrköping, Sweden, telephone +46-11-192713; Mobile +46-709-189148; Fax: +46-11-192246.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 206 meeting/EUROCAE WG 76. The agenda will include:

- **June 11:**
- Opening Session (Chairman's Remarks and Introductions, Review and Approve Meeting. Agenda and Minutes, Discussion, Action Item Review).
- Report on the May Task Force committee to harmonize the Met and AIS OSEDs.
- Due to the need to focus on finishing the document, there will be no general presentation at Norrköping. If a

presentation will enhance the ability to complete the document, it will be accepted.

- Breakout of Subgroup 1.
- Breakout of Subgroup 2.
- **June 12:**
- Subgroup 1 and Subgroup 2 Meetings.

- **June 13:**
- Subgroup 1 and Subgroup 2 Meetings.

- **June 14:**
- Subgroup 1 and Subgroup 2 Meetings.

- **June 15:**
- Plenary Session.
- Closing Session (Other Business, Date and Place of Next Meeting, Closing Remarks, Adjourn).

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on May 10, 2007.

**Francisco Estrada C.,**  
*RTCA Advisory Committee.*

[FR Doc. 07-2498 Filed 5-18-07; 8:45 am]

**BILLING CODE 4910-13-M**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

[Docket No. MARAD-2007-28176]

#### Requested Administrative Waiver of the Coastwise Trade Laws

**AGENCY:** Maritime Administration, Department of Transportation.

**ACTION:** Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel CAROLINA GALE.

**SUMMARY:** As authorized by Pub. L. 105-383 and Pub. L. 107-295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD-2007-28176 at <http://dms.dot.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-

flag vessels. If MARAD determines, in accordance with Pub. L. 105-383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

**DATES:** Submit comments on or before June 20, 2007.

**ADDRESSES:** Comments should refer to docket number MARAD-2007-28176. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL-401, Department of Transportation, 400 7th St., SW., Washington, DC 20590-0001. You may also send comments electronically via the Internet at <http://dmses.dot.gov/submit/>. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:**

Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE., #W21-203, Washington, DC 20590. Telephone 202-366-5979.

**SUPPLEMENTARY INFORMATION:** As described by the applicant the intended service of the vessel CAROLINA GALE is:

*Intended Use:* "sailboat charters and instruction."

*Geographic Region:* "Coast of North Carolina, South Carolina, Georgia, and Florida."

**Privacy Act**

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://dms.dot.gov>.

Dated: May 10, 2007.

By order of the Maritime Administrator.

**Daron T. Threet,**

*Secretary, Maritime Administration.*

[FR Doc. E7-9660 Filed 5-18-07; 8:45 am]

**BILLING CODE 4910-81-P**

**DEPARTMENT OF TRANSPORTATION**

**Maritime Administration**

[Docket No. MARAD-2007-28167]

**Requested Administrative Waiver of the Coastwise Trade Laws**

**AGENCY:** Maritime Administration, Department of Transportation.

**ACTION:** Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel RAFFLES.

**SUMMARY:** As authorized by Pub. L. 105-383 and Pub. L. 107-295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD-2007-28167 at <http://dms.dot.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Pub. L. 105-383 and MARAD's regulations at 46 CFR Part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

**DATES:** Submit comments on or before June 20, 2007.

**ADDRESSES:** Comments should refer to docket number MARAD-2007-28167. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL-401, Department of Transportation, 400 7th St., SW., Washington, DC 20590-0001. You may also send comments electronically via the Internet at <http://dmses.dot.gov/submit/>. All comments will become part of this docket and will

be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:**

Joann Spittle, U.S. Department of Transportation, Maritime Administration, MAR-830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202-366-5979.

**SUPPLEMENTARY INFORMATION:** As described by the applicant the intended service of the vessel RAFFLES is:

*Intended Use:* "Harbor cruise in Channel Islands Harbor, two-six passengers."

*Geographic Region:* "Oxnard, California, Channel Islands Harbor."

**Privacy Act**

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://dms.dot.gov>.

Dated: May 9, 2007.

By order of the Maritime Administrator.

**Daron T. Threet,**

*Secretary, Maritime Administration.*

[FR Doc. E7-9657 Filed 5-18-07; 8:45 am]

**BILLING CODE 4910-81-P**

**DEPARTMENT OF TRANSPORTATION**

**Maritime Administration**

[Docket No. MARAD-2007-28175]

**Requested Administrative Waiver of the Coastwise Trade Laws**

**AGENCY:** Maritime Administration, Department of Transportation.

**ACTION:** Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel SOUND CHOICE.

**SUMMARY:** As authorized by Pub. L. 105-383 and Pub. L. 107-295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief

description of the proposed service, is listed below. The complete application is given in DOT docket MARAD-2007-28175 at <http://dms.dot.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Pub. L. 105-383 and MARAD's regulations at 46 CFR Part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

**DATES:** Submit comments on or before June 20, 2007.

**ADDRESSES:** Comments should refer to docket number MARAD-2007-28175. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL-401, Department of Transportation, 400 7th St., SW., Washington, DC 20590-0001. You may also send comments electronically via the Internet at <http://dms.dot.gov/submit/>. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:**

Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE., #W21-203, Washington, DC 20590. Telephone 202-366-5979.

**SUPPLEMENTARY INFORMATION:** As described by the applicant the intended service of the vessel SOUND CHOICE is: *Intended Use:* "Passenger/sportfishing for personal use only (will be Alaska resident owned and operated)."

*Geographic Region:* "Prince William Sound (Alaska)"

**Privacy Act**

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may

review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://dms.dot.gov>.

Dated: May 10, 2007.

By order of the Maritime Administrator.

**Daron T. Threet,**

*Secretary, Maritime Administration.*

[FR Doc. E7-9661 Filed 5-18-07; 8:45 am]

**BILLING CODE 4910-81-P**

**DEPARTMENT OF TRANSPORTATION**

**National Highway Traffic Safety Administration**

**Petition for Exemption From the Federal Motor Vehicle Motor Theft Prevention Standard; MAZDA**

**AGENCY:** National Highway Traffic Safety Administration, Department of Transportation (DOT).

**ACTION:** Grant of petition for exemption.

**SUMMARY:** This document grants in full the petition of Mazda Motor Corporation, (Mazda) for an exemption in accordance with § 543.9(c)(2) of 49 CFR Part 543, *Exemption from the Theft Prevention Standard*, for the Mazda 5 vehicle line beginning with model year (MY) 2009. This petition is granted because the agency has determined that the antitheft device to be placed on the line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard.

**DATES:** The exemption granted by this notice is effective beginning with model year (MY) 2009.

**FOR FURTHER INFORMATION CONTACT:** Ms. Carlita Ballard, Office of International Vehicle, Fuel Economy and Consumer Standards, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Ms. Ballard's phone number is (202) 366-0846. Her fax number is (202) 493-2290.

**SUPPLEMENTARY INFORMATION:** In a petition dated March 8, 2007, Mazda Motor Corporation (Mazda), requested an exemption from the parts-marking requirements of the theft prevention standard (49 CFR part 541) for the Mazda 5 vehicle line beginning with MY 2009. The petition requested an exemption from parts-marking pursuant to 49 CFR 543, *Exemption from Vehicle Theft Prevention Standard*, based on the installation of an antitheft device as standard equipment for the entire vehicle line.

Under § 543.5(a), a manufacturer may petition NHTSA to grant exemptions for

one line of its vehicle lines per year. Mazda has petitioned the agency to grant an exemption for its Mazda 5 vehicle line beginning with MY 2009. In its petition, Mazda provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for the new vehicle line. Mazda will install its passive antitheft device as standard equipment on its 5 vehicle line. Mazda's submission is considered a complete petition as required by 49 CFR 543.7, in that it meets the general requirements contained in § 543.5 and the specific content requirements of § 543.6.

Mazda's antitheft device is activated when the driver/operator turns off the engine using a properly coded ignition key. When the ignition key is turned to the "ON" position, the transponder (located in the head of the key) transmits a code to an immobilizer control module which then communicates with the powertrain's electronic control module. The vehicle's engine can only be started if the transponder code matches the code previously programmed into the module. If the code does not match, the engine will be disabled. Mazda stated that communications between the immobilizer system control function and the powertrain's electronic control module are encrypted with 18 trillion different codes, and each transponder is hard coded with a unique code at the time of manufacture. Mazda also stated that its immobilizer system incorporates a light-emitting diode (LED) that provides information as to when the system is "set and "unset". When the ignition is initially turned to the "ON" position, a three-second continuous LED indicates the proper "unset" state of the device. When the ignition is turned to "OFF", a flashing LED indicates the "set" state of the system and provides a visual confirmation that the vehicle is protected by the immobilizer system. The integration of the setting/unsetting device (transponder) into the ignition key prevents any inadvertent activation of the system.

In addressing the specific content requirements of 543.6, Mazda provided information on the reliability and durability of its proposed device. To ensure reliability and durability of the device, Mazda conducted tests based on its own specified standards. Mazda also provided a detailed list of the tests conducted and believes that the device is reliable and durable since the device complied with its specified requirements for each test. The components of the immobilizer device are tested in climatic, mechanical and chemical environments, and, immunity

to various electromagnetic radiation. Mazda stated that for reliability/durability purposes, its key and key cylinders must also meet unique strength tests against attempts of mechanical overriding. The tests conducted were for thermal shock, high temperature exposure, low-temperature exposure, thermal cycle, humidity temperature cycling, functional, random vibration, dust, water, connector and lead/lock strength, chemical resistance, electromagnetic field, power line variations, DC stresses, electrostatic discharge, transceiver/key strength and transceiver mounting strength. Mazda also stated that its device is reliable and durable because it does not have any moving parts, nor does it require a separate battery in the key. Therefore, Mazda believes that any attempt to slam-pull the ignition lock cylinder will have no effect on a thief's ability to start the vehicle, and if the correct code is not transmitted to the electronic control module there is no way to mechanically override the system and start the vehicle. Furthermore, Mazda stated that drive-away thefts are virtually eliminated with the sophisticated design and operation of the electronic-engine immobilizer system which makes conventional theft methods (*i.e.*, hot-wiring or attacking the ignition-lock cylinder) ineffective.

Additionally, Mazda reported that in MY 1996, the proposed system was installed on certain U.S. Ford vehicles as standard equipment (*i.e.* on all Ford Mustang GT and Cobra models, Ford Taurus LX, SHO and Sable LS models). In MY 1997, the immobilizer system was installed on the Ford Mustang vehicle line as standard equipment. When comparing 1995 model year Mustang vehicle thefts (without immobilizer), with MY 1997 Mustang vehicle thefts (with immobilizer), data from the National Insurance Crime Bureau showed a 70% reduction in theft. (Actual NCIC reported thefts were 500 for MY 1995 Mustang, and 149 thefts for MY 1997 Mustang.) Mazda also provided additional data from the July 2000 Insurance Institute for Highway Safety (IIHS) news release to support its belief in the reliability of its device. The IIHS news release showed an average theft reduction of about fifty percent for vehicles equipped with immobilizer systems.

Mazda's proposed device, as well as other comparable devices that have received full exemptions from the parts-marking requirements, lack an audible or visible alarm. Therefore, these devices cannot perform one of the functions listed in 49 CFR part 543.6(a)(3), that is, to call attention to

unauthorized attempts to enter or move the vehicle. However, theft data have indicated a decline in theft rates for vehicle lines that have been equipped with devices similar to that which Mazda proposes. In these instances, the agency has concluded that the lack of a visual or audio alarm has not prevented these antitheft devices from being effective protection against theft.

Based on the evidence submitted by Mazda, the agency believes that the antitheft device for the Mazda 5 vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR 541).

The agency concludes that the device will provide four of the five types of performance listed in § 543.6(a)(3): Promoting activation; preventing defeat or circumvention of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device.

As required by 49 U.S.C. 33106 and 49 CFR part 543.6(a)(4) and (5), the agency finds that Mazda has provided adequate reasons for its belief that the antitheft device will reduce and deter theft. This conclusion is based on the information Mazda provided about its device. For the foregoing reasons, the agency hereby grants in full Mazda's petition for exemption for its vehicle line from the parts-marking requirements of 49 CFR part 541.

The agency notes that 49 CFR part 541, Appendix A-1, identifies those lines that are exempted from the Theft Prevention Standard for a given model year. 49 CFR part 543.7(f) contains publication requirements incident to the disposition of all part 543 petitions. Advanced listing, including the release of future product nameplates, the beginning model year for which the petition is granted and a general description of the antitheft device is necessary in order to notify law enforcement agencies of new vehicle lines exempted from the parts-marking requirements of the Theft Prevention Standard.

If Mazda decides not to use the exemption for this line, it should formally notify the agency. If such a decision is made, the line must be fully marked according to the requirements under 49 CFR parts 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if Mazda wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption. Part 543.7(d)

states that a part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the antitheft device on which the line's exemption is based. Further, part 543.9(c)(2) provides for the submission of petitions "to modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption."

The agency wishes to minimize the administrative burden that part 543.9(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend in drafting part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be *de minimis*. Therefore, NHTSA suggests that if the manufacturer contemplates making any changes the effects of which might be characterized as *de minimis*, it should consult the agency before preparing and submitting a petition to modify.

**Authority:** 49 U.S.C. 33106; delegation of authority at 49 CFR 1.50.

Issued on: May 15, 2007.

**Stephen R. Kratzke,**

*Associate Administrator for Rulemaking.*

[FR Doc. E7-9666 Filed 5-18-07; 8:45 am]

**BILLING CODE 4910-59-P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

#### Notice and Request for Comments

**AGENCY:** Surface Transportation Board.  
**ACTION:** Notice of intent to seek approval of existing collection: Waybill Sample

**SUMMARY:** As required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.* (PRA), the Surface Transportation Board (STB or Board) gives notice of its intent to seek from the Office of Management and Budget (OMB) an approval for the currently existing collection of Waybill Sample data. This information collection is described in detail below. Comments are requested concerning: (1) The accuracy of the Board's burden estimates; (2) ways to enhance the quality, utility, and clarity of the information collected; (3) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology, when appropriate; and (4) whether this collection of information is necessary for the proper performance of the

functions of the Board, including whether the collection has practical utility. Submitted comments will be summarized and included in the Board's request for OMB approval.

#### Description of Collection

*Title:* Waybill Sample.

*OMB Control Number:* 2140-00.

*STB Form Number:* None.

*Type of Review:* Approval of existing collection.

*Respondents:* Any regulated railroad that terminated at least 4,500 carloads on its line in any of the three preceding years or that terminated at least 5% of the total revenue carloads that terminated in a particular state.

*Number of Respondents:* 64.

*Estimated Time Per Response:* 75 minutes.

*Frequency:* Five (5) respondents report Monthly; 59 report quarterly.

*Total Burden Hours (annually including all respondents):* 370 hours.

*Total "Non-hour Burden" Cost:* No "non-hour cost" burdens associated with this collection have been identified.

*Needs and Uses:* The Surface Transportation Board is, by statute, responsible for the economic regulation of common carrier rail transportation in the United States. Under 49 CFR part 1244, a railroad is required to file carload waybill sample information (Waybill Sample) for all line-haul revenue waybills terminating on its lines if, in any of the three preceding years, it terminated 4500 or more carloads, or it terminated at least 5% of the total revenue carloads that terminate in a particular state. The information in the Waybill Sample is used by the Board, other Federal and state agencies, and industry stakeholders to monitor traffic flows and rate trends in the industry, and to develop testimony in Board proceedings. The Board has authority to collect this information under 49 U.S.C. 11144 and 11145.

**DATES:** Comments on this information collection should be submitted by July 20, 2007.

**ADDRESSES:** Direct all comments to Marilyn Levitt, Surface Transportation Board, Suite 1260, 395 E Street, SW., Washington, DC 20423-0001, or to [levittm@stb.dot.gov](mailto:levittm@stb.dot.gov). When submitting comments, please refer to "Paperwork Reduction Comments: Waybill Sample."

#### FOR FURTHER INFORMATION OR TO OBTAIN A COPY OF PERTINENT REGULATIONS

**CONTACT:** Mac Frampton at (202) 245-0317 or at [hugh.frampton@stb.dot.gov](mailto:hugh.frampton@stb.dot.gov). [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at

1-800-877-8339.] These regulations are codified at 49 CFR parts 1244.1-1244.9 and are also available on the web through <http://www.gpoaccess.gov/cfr/index.html>.

**SUPPLEMENTARY INFORMATION:** Under the PRA, a Federal agency conducting or sponsoring a collection of information must display a currently valid OMB control number. A collection of information, which is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c), includes agency requirements that persons submit reports, keep records, or provide information to the agency, third parties, or the public. Under section 3506(c)(2)(A) of the PRA, Federal agencies are required to provide public notice and a 60-day comment period, prior to seeking OMB approval for an information collection.

Dated: May 21, 2007.

**Vernon A. Williams,**

*Secretary.*

[FR Doc. E7-9689 Filed 5-18-07; 8:45 am]

**BILLING CODE 4915-01-P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Ex Parte No. 558 (Sub-No. 10)]

#### Railroad Cost of Capital—2006

**AGENCY:** Surface Transportation Board.

**ACTION:** Notice of decision.

**SUMMARY:** The Board is instituting a proceeding to determine the railroad industry's cost of capital for 2006. The decision solicits comments on: (1) The railroads' 2006 current cost of debt capital; (2) the railroads' 2006 current cost of preferred stock equity capital (if any); (3) the railroads' 2006 cost of common stock equity capital; and (4) the 2006 capital structure mix of the railroad industry on a market value basis.

**DATES:** Notices of intent to participate are due no later than May 29, 2007. Statements of the railroads are due by June 25, 2007. Statements of other interested persons are due by July 25, 2007. Rebuttal statements by the railroads are due by August 9, 2007.

**ADDRESSES:** Railroads and others that intend to participate in this proceeding shall file an original and one copy of a notice of intent to participate with the Secretary by the date specified below. Evidentiary statements are to be filed with the Board on or before the dates set forth above. Comments may be submitted either via the Board's e-filing format or in the traditional paper

format. Any person using e-filing should comply with the instructions at the E-FILING link on the Board's Web site, at <http://www.stb.dot.gov>. Any person submitting a filing in the traditional paper format should send an original and 10 copies to: Surface Transportation Board, Attn: STB Ex Parte No. 558 (Sub-No. 10), 395 E Street, SW., Washington, DC 20423-0001. In addition, the evidence contained in the statement shall be submitted on a 3.5-inch disk in MS Word 2003 or its equivalent.

#### FOR FURTHER INFORMATION CONTACT:

Scott Decker, (202) 245-0330. (Federal Information Relay Service (FIRS) for the hearing impaired: 1 (800) 877-8339.)

**SUPPLEMENTARY INFORMATION:** The Board's decision is posted on the Board's website, [www.stb.dot.gov](http://www.stb.dot.gov). In addition, copies of the decision may be purchased from ASAP Document Solutions by calling 202-306-4004 (assistance for the hearing impaired is available through FIRS at 1-800-877-8339), or by e-mail at [asapdc@verizon.net](mailto:asapdc@verizon.net).

We preliminarily conclude that the proposed action will not significantly affect either the quality of the human environment or the conservation of energy resources.

**Authority:** 49 U.S.C. 10704(a).

Decided: May 14, 2007.

By the Board, Chairman Nottingham, Vice Chairman Buttrey, and Commissioner Mulvey.

**Vernon A. Williams,**

*Secretary.*

[FR Doc. E7-9690 Filed 5-18-07; 8:45 am]

**BILLING CODE 4915-00-P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Docket No. AB-31 (Sub-No. 41X)]

#### Grand Trunk Western Railroad Incorporated—Abandonment Exemption—in Oakland County, MI

Grand Trunk Western Railroad Incorporated (GTW) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon a 0.7-mile portion of its line of railroad known as the Cass City Subdivision from milepost 7.06 to milepost 6.36 in Orion Township, in Oakland County, MI.<sup>1</sup> The line traverses United States Postal Service Zip Code 48359.

<sup>1</sup> Pursuant to 49 CFR 1152.50(d)(2), the railroad must file a verified notice with the Surface Transportation Board (Board) at least 50 days before the abandonment or discontinuance is to be consummated. GTW initially indicated in its notice of exemption a proposed consummation date of

GTW has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic to be rerouted; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on June 20, 2007, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,<sup>2</sup> formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),<sup>3</sup> and trail use/rail banking requests under 49 CFR 1152.29 must be filed by May 31, 2007. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by June 11, 2007, with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to GTW's representative: Thomas J. Healey, 17641 S. Ashland Avenue, Homewood, IL 60430-1345.

June 11, 2007, but because the verified notice was filed on May 1, 2007, consummation may not take place prior to June 20, 2007. GTW has been informed by a Board staff member that consummation may not take place until June 20, 2007.

<sup>2</sup> The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. See *Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

<sup>3</sup> Each OFA must be accompanied by the filing fee, which currently is set at \$1,300. See 49 CFR 1002.2(f)(25).

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

GTW has filed a combined environmental report and historic report which addresses the effects, if any, of the abandonment on the environment and historic resources. SEA will issue an environmental assessment (EA) by May 25, 2007. Interested persons may obtain a copy of the EA by writing to SEA (Room 1100, Surface Transportation Board, Washington, DC 20423-0001) or by calling SEA, at (202) 245-0305. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), GTW shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by GTW's filing of a notice of consummation by May 21, 2008, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at "WWW.STB.DOT.GOV."

Decided: May 11, 2007.

By the Board, David M. Konschnick, Director, Office of Proceedings.

**Vernon A. Williams,**

*Secretary.*

[FR Doc. E7-9584 Filed 5-18-07; 8:45 am]

**BILLING CODE 4915-01-P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Docket No. AB-1009X]

#### Mission Mountain Railroad, Inc.— Discontinuance of Service Exemption—in Flathead County, MT

Mission Mountain Railroad, Inc. (MMT)<sup>1</sup> has filed a verified notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments and Discontinuances of Service to*

<sup>1</sup> MMT was authorized to lease and operate the line in *Mission Mountain Railroad, Inc.—Acquisition Exemption—The Burlington Northern and Santa Fe Railway Company*, STB Finance Docket No. 34634 (STB served Jan. 19, 2005).

discontinue service over a 0.42-mile line of railroad between Engineering Station 189+36 and Engineering Station 167+00, in Flathead County, MT.<sup>2</sup> The line traverses United States Postal Service Zip Code 59901.

MMT has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line to be rerouted; (3) no formal complaint filed by a user of rail service on the line (or by a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the discontinuance of service shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on June 20, 2007, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA for continued rail service under 49 CFR 1152.27(c)(2),<sup>3</sup> must be filed by May 31, 2007.<sup>4</sup> Petitions to reopen must be filed by June 11, 2007, with: Surface Transportation Board, 395 E Street, SW., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to MMT's representative: Karl Morell, Ball Janik LLP, 1455 F Street, NW., Suite 225, Washington, DC 20005.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

<sup>2</sup> BNSF Railway Company was authorized to abandon the above-described line in *BNSF Railway Company—Abandonment Exemption—in Flathead County, MT*, STB Docket No. AB-6 (Sub-No. 444X) (STB served Sept. 28, 2006).

<sup>3</sup> Each OFA must be accompanied by the filing fee, which currently is set at \$1,300. See 49 CFR 1002.2(f)(25).

<sup>4</sup> Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate. Likewise, no environmental or historical documentation is required here under 49 CFR 1105.6(c) and 1105.8(b), respectively.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Decided: May 11, 2007.

By the Board, David M. Konschnik,  
Director, Office of Proceedings.

**Vernon A. Williams,**

*Secretary.*

[FR Doc. E7-9563 Filed 5-18-07; 8:45 am]

BILLING CODE 4915-01-P

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Docket No. AB-383 (Sub-No. 5X)]

#### Wisconsin & Southern Railroad Co.— Abandonment Exemption—in Milwaukee County, WI

On April 19, 2007, as supplemented on May 7, 2007, the Wisconsin & Southern Railroad Co. (WSOR) filed with the Board a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon an approximately 2.41-mile line of railroad, extending from milepost 94.35, east of N. 24th Street, to milepost 96.76, west of N. Richards Street, known as the Nut Line, in the cities of Milwaukee and Glendale, in Milwaukee County, WI.<sup>1</sup> The line traverses United States Postal Service Zip Codes 53209 and 53212, and includes no stations.

The line does not contain federally granted rights-of-way. Any documentation in WSOR's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

By issuing this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by August 24, 2007.

Any OFA under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by a \$1,300 filing fee. See 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any

request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than June 14, 2007. Each trail use request must be accompanied by a \$200 filing fee. See 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB-383 (Sub-No. 5X), and must be sent to: (1) Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001; and (2) John D. Heffner, John D. Heffner, PLLC, 1920 N Street, NW., Suite 800, Washington, DC 20036. Replies to the petition are due on or before June 14, 2007.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 245-0230 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 245-0305. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Decided: May 11, 2007.

By the Board, David M. Konschnik,  
Director, Office of Proceedings.

**Vernon A. Williams,**

*Secretary.*

[FR Doc. E7-9491 Filed 5-18-07; 8:45 am]

BILLING CODE 4915-01-P

## DEPARTMENT OF THE TREASURY

### Submission for OMB Review; Comment Request

May 15, 2007.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13. Copies of the

submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

*Dates:* Written comments should be received on or before June 20, 2007 to be assured of consideration.

#### Alcohol and Tobacco Tax and Trade Bureau (TTB)

*OMB Number:* 1513-0085.

*Type of Review:* Extension.

*Title:* Principal Place of Business on Beer Labels. TTB REC 5130/5.

*Description:* TTB regulations permit domestic brewers who operate more than one brewery to show as their address on labels and kegs of beer, their "principal place of business" address. This label option may be used in lieu of showing the actual place of production on the label or of listing all of the brewer's locations on the label.

*Respondents:* Business and other for profits.

*Estimated Total Burden Hours:* 1 hour.

*OMB Number:* 1513-0005.

*Type of Review:* Revision.

*Title:* Letterhead applications and notices filed by brewers. TTB REC 5130/2.

*Form:* TTB 5130.10.

*Description:* The Internal Revenue Code requires brewers to file a notice of intent to operate a brewery. TTB Form 5130.10 is similar to a permit and, when approved by TTB, is a brewer's authorization to operate. Letterhead applications and notices are necessary to identify brewery activities so that TTB may ensure that proposed operations do not jeopardize Federal revenues.

*Respondents:* Business and other for profits.

*Estimated Total Burden Hours:* 8,976 hours.

*OMB Number:* 1513-0086.

*Type of Review:* Extension.

*Title:* Marks on Equipment and Structures (TTB REC 5130/3) and Marks and Labels on Containers of Beer (TTB REC 5130/4).

*Description:* Marks, signs, and calibrations are necessary on equipment and structures for identifying major equipment for accurate determination of tank contents, and segregation of tax-paid and non tax-paid beer. Marks and labels on containers or beer are necessary to inform consumers of

<sup>1</sup> By letter filed on May 11, 2007, WSOR's counsel confirmed information supplied by counsel on May 7, 2007. Because the petition was thus complete on May 7, 2007, the filed date will be deemed to be May 7, 2007, and all deadlines will be calculated from that date.



container contents, and to identify the brewer and place of production.

*Respondents:* Business and other for profits.

*Estimated Total Burden Hours:* 1 hour.

*OMB Number:* 1513-0117.

*Type of Review:* Extension.

*Title:* Pay.gov User Agreement.

*Form:* TTB F 5000.31.

*Description:* The Pay.gov User Agreement will be used to identify, validate, approve and register qualified users to allow for submission of electronic forms using the Pay.gov System.

*Respondents:* Business and other for profits.

*Estimated Total Burden Hours:* 483 hours.

*Clearance Officer:* Frank Foote, (202) 927-9347, Alcohol and Tobacco Tax and Trade Bureau, Room 200 East, 1310 G Street, NW., Washington, DC 20005.

*OMB Reviewer:* Alexander T. Hunt, (202) 395-7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

**Michael A. Robinson,**

*Treasury PRA Clearance Officer.*

[FR Doc. E7-9704 Filed 5-18-07; 8:45 am]

**BILLING CODE 4810-31-P**

## DEPARTMENT OF THE TREASURY

### Submission for OMB Review; Comment Request

May 16, 2007.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

*Dates:* Written comments should be received on or before June 20, 2007 to be assured of consideration.

#### Internal Revenue Service (IRS)

*OMB Number:* 1545-1729.

*Type of Review:* Extension.

*Title:* TD 9114 (Final) Electronic

Payee Statements.

*Description:* In general, under these regulations, a person required to furnish

a statement on Form W-2 under Code sections 6041(d) or 6051, or Forms 1098-T or 1098-E under Code section 6050S, may furnish these statements electronically if the recipient consents to receive them electronically, and if the person furnishing the statement (1) makes certain disclosures to the recipient, (2) annually notifies the recipient that the statement is available on a Web site, and (3) provides access to the statement on that Web site for a prescribed period of time.

*Respondents:* Businesses and other for-profit institutions.

*Estimated Total Burden Hours:* 2,844,950 hours.

*OMB Number:* 1545-1625.

*Type of Review:* Extension.

*Title:* REG-105170-97 and REG-112991-01, (Final) Credit for Increasing Research Activities (TD 8930 & TD 9104).

*Description:* These final regulations relate to the computation of the credit under section 41(c) and the definition of qualified research under section 41(d). These regulations are intended to provide (1) guidance concerning the requirements necessary to qualify for the credit for increasing research activities, (2) guidance in computing the credit for increasing research activities, and (3) rules for electing and revoking the election of the alternative incremental credit.

*Respondents:* Businesses and other for-profit institutions.

*Estimated Total Burden Hours:* 250 hours.

*OMB Number:* 1545-0720.

*Type of Review:* Extension.

*Title:* Form 8038, Information Return for Tax-Exempt Private Activity Bond Issues, Form 8038-G, Information Return for Tax-Exempt Governmental Obligation, and Form 8038-GC, Information Return for Tax-Exempt Private Activity Bond Issues.

*Form:* 8038, 8038-G, and 8038-GC.

*Description:* Forms 8038, 8038-G, and 8038-GC collect the information that IRS is required to collect by Code section 149(e). IRS uses the information to assure that tax-exempt bonds are issued consistent with the rules of IRC sections 141-149.

*Respondents:* State, Local, and Tribal Governments.

*Estimated Total Burden Hours:* 293,900 hours.

*OMB Number:* 1545-2042.

*Type of Review:* Extension.

*Title:* IRS e-file Signature Authorization for Form 1065.

*Form:* 8879-PE.

*Description:* Form 8879-PE, IRS e-file Signature Authorization for Form 1065,

was developed for Modernized e-file for partnerships.

*Respondents:* Businesses and other for-profit institutions.

*Estimated Total Burden Hours:* 2,025 hours.

*OMB Number:* 1545-0735.

*Type of Review:* Extension.

*Title:* LR-189-80 (TD 7927) Final Amortization of Reforestation Expenditures

*Description:* Section 194 allows taxpayers to elect to amortize certain reforestation expenditures over a 7-year period if the expenditures meet certain requirements. The regulations implement this election provision and allow the Service to determine if the election is proper and allowable.

*Respondents:* Individuals or households.

*Estimated Total Burden Hours:* 6,001 hours.

*OMB Number:* 1545-0232.

*Type of Review:* Extension.

*Title:* Information Return of Nontaxable Energy Grants or Subsidized Energy Financing.

*Form:* 6497.

*Description:* Used by any governmental agency or its agents that make nontaxable grants or subsidized financing for energy conservation or production programs. We use the information from the form to ensure that recipients have not claimed tax credits or other benefits with respect to the grant or subsidized financing (no "double dipping").

*Respondents:* Businesses and other for-profit institutions.

*Estimated Total Burden Hours:* 810 hours.

*Clearance Officer:* Glenn P. Kirkland, (202) 622-3428, Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

*OMB Reviewer:* Alexander T. Hunt, (202) 395-7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

**Robert Dahl,**

*Treasury PRA Clearance Officer.*

[FR Doc. E7-9705 Filed 5-18-07; 8:45 am]

**BILLING CODE 4830-01-P**

## DEPARTMENT OF THE TREASURY

### Office of the Comptroller of the Currency

#### Agency Information Collection Activities: Proposed Information Collection; Comment Request

**AGENCY:** Office of the Comptroller of the Currency (OCC), Treasury.



**ACTION:** Notice and request for comment.

**SUMMARY:** The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the renewal of an information collection, as required by the Paperwork Reduction Act of 1995. An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC is soliciting comment concerning an information collection titled, "Interagency Statement on Complex Structured Finance Transactions."

**DATES:** Comments must be submitted on or before July 20, 2007.

**ADDRESSES:** Communications Division, Office of the Comptroller of the Currency, Public Information Room, Mailstop 1-5, Attention: 1557-0229, 250 E Street, SW., Washington, DC 20219. In addition, comments may be sent by fax to (202) 874-4448, or by electronic mail to [regs.comments@occ.treas.gov](mailto:regs.comments@occ.treas.gov). You can inspect and photocopy the comments at the OCC's Public Information Room, 250 E Street, SW., Washington, DC 20219. You can make an appointment to inspect the comments by calling (202) 874-5043.

Additionally, you should send a copy of your comments to OCC Desk Officer, 1557-0229, by mail to U.S. Office of Management and Budget, 725 17th Street, NW., #10235, Washington, DC 20503, or by fax to (202) 395-6974.

**FOR FURTHER INFORMATION CONTACT:** You may request additional information or a copy of the collection and supporting documentation submitted to OMB by contacting: Mary Gottlieb or Camille Dickerson, (202) 874-5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

**SUPPLEMENTARY INFORMATION:**

*Title:* Interagency Statement on Complex Structured Finance Transactions.

*OMB Control No.:* 1557-0229.

*Type of Review:* Regular review.

*Description:* The statement describes the types of internal controls and risk management procedures that the agencies (OCC, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, Office of Thrift Supervision, and the Securities and Exchange Commission) believe are particularly effective in assisting financial institutions to identify and

address the reputational, legal, and other risks associated with complex structured finance transactions.

*Affected Public:* Businesses or other for-profit.

*Burden Estimates:*

*Estimated Number of Respondents:* 21.

*Estimated Number of Responses:* 21.

*Estimated Annual Burden:* 525 hours.

*Frequency of Response:* On occasion.

*Comments:* Comments submitted in response to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;

(b) The accuracy of the agency's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: May 15, 2007.

**Stuart Feldstein**

*Assistant Director, Legislative and Regulatory Activities Division Office of the Comptroller of the Currency.*

[FR Doc. 07-2519 Filed 5-18-07; 8:45 am]

**BILLING CODE 4810-33-P**

## DEPARTMENT OF THE TREASURY

### Office of the Comptroller of the Currency

#### Agency Information Collection Activities: Proposed Information Collection; Comment Request

**AGENCY:** Office of the Comptroller of the Currency (OCC), Treasury.

**ACTION:** Notice and request for comment.

**SUMMARY:** The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the renewal of an information collection, as required by the Paperwork Reduction Act of 1995. An agency may not conduct or sponsor, and a respondent is not required to respond to, an information

collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC is soliciting comment concerning an information collection titled, "Record and Disclosure Requirements—FRB Regulations B, E, M, Z, CC, and DD."

**DATES:** Comments must be submitted on or before July 20, 2007.

**ADDRESSES:** Communications Division, Office of the Comptroller of the Currency, Public Information Room, Mailstop 1-5, Attention: 1557-0176, 250 E Street, SW., Washington, DC 20219. In addition, comments may be sent by fax to (202) 874-4448, or by electronic mail to [regs.comments@occ.treas.gov](mailto:regs.comments@occ.treas.gov). You can inspect and photocopy the comments at the OCC's Public Information Room, 250 E Street, SW., Washington, DC 20219. You can make an appointment to inspect the comments by calling (202) 874-5043.

Additionally, you should send a copy of your comments to OCC Desk Officer, 1557-0176, by mail to U.S. Office of Management and Budget, 725 17th Street, NW., #10235, Washington, DC 20503, or by fax to (202) 395-6974.

**FOR FURTHER INFORMATION CONTACT:** You may request additional information or a copy of the collection and supporting documentation submitted to OMB by contacting: Mary Gottlieb or Camille Dickerson, (202) 874-5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

**SUPPLEMENTARY INFORMATION:**

*Title:* Record and Disclosure Requirements—FRB Regulations B, E, M, Z, CC, and DD.

*OMB Control No.:* 1557-0176.

*Type of Review:* Regular review.

*Description:* This information collection covers the Board of Governors of the Federal Reserve System's (FRB) Regulations (Regs) B, C, E, M, Z, CC, and DD.

#### Reg B—12 CFR 202—Equal Credit Opportunity

Prohibits lenders from discriminating against credit applicants, establishes guidelines for gathering and evaluating information about personal characteristics in applications for certain dwelling-related loans, requires lenders to provide applicants with copies of appraisal reports in connection with credit transactions, and requires written notification of action taken on a credit application.

**Reg C—12 CFR 203—Home Mortgage Disclosure**

Requires certain mortgage lenders to report certain home loan application information and to disclose certain data regarding their home mortgage lending.

**Reg E—12 CFR—205—Electronic Fund Transfers**

Establishes the rights, liabilities, and responsibilities of parties in electronic funds transfers and protects consumers when they use such systems.

**Reg M—12 CFR 213—Consumer Leasing**

Implements the consumer leasing provisions of the Truth in Lending Act by requiring meaningful disclosure of leasing terms.

**Reg Z—12 CFR 226—Truth in Lending**

Prescribes uniform methods for computing the cost of credit, for disclosing credit terms and costs, and for resolving errors on certain types of credit accounts.

**Reg CC—12 CFR 229—Availability of Funds and Collection of Checks**

Governs the availability of funds deposited in checking accounts, the collection and return of checks, and substitute checks.

**Reg DD—12 CFR 230—Truth in Savings**

Requires depository institutions to provide disclosures to enable consumers to make meaningful comparisons of deposit accounts.

*Affected Public:* Businesses or other for-profit.

*Burden Estimates:*

*Estimated Number of Respondents:* 1,800.

*Estimated Number of Responses:* 1,800.

*Estimated Annual Burden:* 3,539,052 hours.

*Frequency of Response:* On occasion.

*Comments:* Comments submitted in response to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;

(b) The accuracy of the agency's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including

through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: May 15, 2007.

**Stuart Feldstein,**

*Assistant Director, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency.*

[FR Doc. 07-2520 Filed 5-18-07; 8:45 am]

**BILLING CODE 4810-33-P**

**DEPARTMENT OF THE TREASURY****Office of the Comptroller of the Currency****Agency Information Collection Activities: Submission for OMB Review; Comment Request**

**AGENCY:** Office of the Comptroller of the Currency (OCC), Treasury.

**ACTION:** Notice and request for comment.

**SUMMARY:** The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995. An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC is soliciting comment concerning an extension of OMB approval of the information collection titled, "Disclosure of Financial and Other Information by National Banks (12 CFR 18)." The OCC also gives notice that it has sent the information collection to OMB for review and approval.

**DATES:** Comments must be submitted on or before June 20, 2007.

**ADDRESSES:** Communications Division, Office of the Comptroller of the Currency, Public Information Room, Mailstop 1-5, Attention: 1557-0182, 250 E Street, SW., Washington, DC 20219. In addition, comments may be sent by fax to (202) 874-4448, or by electronic mail to [regs.comments@occ.treas.gov](mailto:regs.comments@occ.treas.gov). You can inspect and photocopy the comments at the OCC's Public Information Room, 250 E Street, SW., Washington, DC 20219. You can make an appointment to inspect the comments by calling (202) 874-5043.

Additionally, you should send a copy of your comments to OCC Desk Officer,

1557-0182, by mail to U.S. Office of Management and Budget, 725 17th Street, NW., #10235, Washington, DC 20503, or by fax to (202) 395-6974.

**FOR FURTHER INFORMATION CONTACT:** You may request additional information or a copy of the collection and supporting documentation submitted to OMB by contacting: Mary Gottlieb or Camille Dickerson, (202) 874-5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

**SUPPLEMENTARY INFORMATION:**

*Title:* Disclosure of Financial and Other Information by National Banks (12 CFR 18).

*OMB Control No.:* 1557-0182.

*Type of Review:* Extension, without revision, of a currently approved collection.

*Description:* The collections of information are found in 12 CFR 18.4(c) and 18.8. Section 18.4(c) permits a bank to prepare an optional narrative for inclusion in its annual disclosure statement. Section 18.8 requires that a national bank promptly furnish materials in response to a request.

The regulation applies to approximately 1,800 national banks and 50 Federal branches and agencies. Most banks will use their Call Reports or information prepared for annual reports as their disclosure material.

This program of periodic financial disclosure is needed, not only to facilitate informed decision making by existing and potential customers and investors, but also to improve public understanding of, and confidence in, the financial condition of individual national banks and the national banking system. Further, financial disclosure reduces the likelihood that the market will overreact to incomplete information.

*Affected Public:* Businesses or other for-profit.

*Burden Estimates:*

*Estimated Number of Respondents:* 1,850.

*Estimated Number of Responses:* 1,850.

*Estimated Annual Burden:* 925 hours.

*Frequency of Response:* On occasion.

*Comments:* A 60-day **Federal Register** Notice was issued on March 14, 2007 (72 FR 11933). No comments were received. Comments continue to be invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;

(b) The accuracy of the agency's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: May 15, 2007.

**Stuart Feldstein,**

*Assistant Director, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency.*

[FR Doc. 07-2521 Filed 5-18-07; 8:45 am]

**BILLING CODE 4810-33-P**

## DEPARTMENT OF THE TREASURY

### Office of the Comptroller of the Currency

#### Agency Information Collection Activities: Submission for OMB Review; Comment Request

**AGENCY:** Office of the Comptroller of the Currency (OCC), Treasury.

**ACTION:** Notice and request for comment.

**SUMMARY:** The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995. An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC is soliciting comment concerning an extension of OMB approval of the information collection titled, "(MA) Real Estate Lending and Appraisals (12

CFR 34)." The OCC also gives notice that it has sent the information collection to OMB for review and approval.

**DATES:** Comments must be submitted on or before June 20, 2007.

**ADDRESSES:** Communications Division, Office of the Comptroller of the Currency, Public Information Room, Mailstop 1-5, Attention: 1557-0190, 250 E Street, SW., Washington, DC 20219. In addition, comments may be sent by fax to (202) 874-4448, or by electronic mail to [regs.comments@occ.treas.gov](mailto:regs.comments@occ.treas.gov). You can inspect and photocopy the comments at the OCC's Public Information Room, 250 E Street, SW., Washington, DC 20219. You can make an appointment to inspect the comments by calling (202) 874-5043.

Additionally, you should send a copy of your comments to OCC Desk Officer, 1557-0190, by mail to U.S. Office of Management and Budget, 725 17th Street, NW., #10235, Washington, DC 20503, or by fax to (202) 395-6974.

**FOR FURTHER INFORMATION CONTACT:** You may request additional information or a copy of the collection and supporting documentation submitted to OMB by contacting: Mary Gottlieb or Camille Dickerson, (202) 874-5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

#### SUPPLEMENTARY INFORMATION:

*Title:* (MA) Real Estate Lending and Appraisals (12 CFR 34).

*OMB Control No.:* 1557-0190.

*Type of Review:* Extension, without revision, of a currently approved collection.

*Description:* Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA), 12 U.S.C. 3331 *et seq.*, directs the Federal banking agencies to publish appraisal rules for federally related transactions. This submission covers those statutorily required appraisal rules. These regulations are required by statute and

are used by the agencies to ensure the safe and sound operation of financial institutions.

National banks must review and maintain records required under 12 CFR Part 34 Subpart C (Appraisal Requirements) and Subpart D (Real Estate Lending Standards) and file the reports required by Subpart E (Other Real Estate Owned).

*Affected Public:* Businesses or other for-profit.

*Burden Estimates:*

*Estimated Number of Respondents:* 1,800.

*Estimated Number of Responses:* 3,610.

*Estimated Annual Burden:* 99,050 hours.

*Frequency of Response:* On occasion.

*Comments:* A 60-day **Federal Register** Notice was issued on March 14, 2007 (72 FR 11934). No comments were received. Comments continue to be invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;

(b) The accuracy of the agency's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: May 15, 2007.

**Stuart Feldstein,**

*Assistant Director, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency.*

[FR Doc. 07-2523 Filed 5-18-07; 8:45 am]

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# Federal Register

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**Monday,  
May 21, 2007**

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## **Part II**

### **United States Sentencing Commission**

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**Sentencing Guidelines for the United  
States Courts; Notices**

## UNITED STATES SENTENCING COMMISSION

### Sentencing Guidelines for United States Courts

**AGENCY:** United States Sentencing Commission.

**ACTION:** Notice of submission to Congress of amendments to the sentencing guidelines effective November 1, 2007.

**SUMMARY:** Pursuant to its authority under 28 U.S.C. 994(p), the Commission has promulgated amendments to the sentencing guidelines, policy statements, commentary, and statutory index. This notice sets forth the amendments and the reason for each amendment.

**DATES:** The Commission has specified an effective date of November 1, 2007, for the amendments set forth in this notice.

**FOR FURTHER INFORMATION CONTACT:** Michael Courlander, Public Affairs Officer, 202–502–4590. The amendments set forth in this notice also may be accessed through the Commission's Web site at <http://www.ussc.gov>.

**SUPPLEMENTARY INFORMATION:** The United States Sentencing Commission is an independent agency in the judicial branch of the United States Government. The Commission promulgates sentencing guidelines and policy statements for federal sentencing courts pursuant to 28 U.S.C. 994(a). The Commission also periodically reviews and revises previously promulgated guidelines pursuant to 28 U.S.C. 994(o) and generally submits guideline amendments to Congress pursuant to 28 U.S.C. 994(p) not later than the first day of May each year. Absent action of Congress to the contrary, submitted amendments become effective by operation of law on the date specified by the Commission (generally November 1 of the year in which the amendments are submitted to Congress).

Notice of proposed amendments was published in the **Federal Register** on January 30, 2007 (*see* 72 FR 4372). The Commission held a public hearing on the proposed amendments in Washington, DC, on March 20, 2007. On May 1, 2007, the Commission submitted these amendments to Congress and specified an effective date of November 1, 2007.

**Authority:** 28 U.S.C. 994(a), (o), and (p); USSC Rule of Practice and Procedure 4.1.

**Ricardo H. Hinojosa,**  
*Chair.*

### 1. Compassionate Release

Amendment: The Commentary to § 1B1.13 captioned "Application Notes" is amended in Note 1 by striking subdivision (A) and inserting the following:

"(A) Extraordinary and Compelling Reasons.—Provided the defendant meets the requirements of subdivision (2), extraordinary and compelling reasons exist under any of the following circumstances:

(i) The defendant is suffering from a terminal illness.

(ii) The defendant is suffering from a permanent physical or medical condition, or is experiencing deteriorating physical or mental health because of the aging process, that substantially diminishes the ability of the defendant to provide self-care within the environment of a correctional facility and for which conventional treatment promises no substantial improvement.

(iii) The death or incapacitation of the defendant's only family member capable of caring for the defendant's minor child or minor children.

(iv) As determined by the Director of the Bureau of Prisons, there exists in the defendant's case an extraordinary and compelling reason other than, or in combination with, the reasons described in subdivisions (i), (ii), and (iii)."

The Commentary to § 1B1.13 is amended by striking "Background" and all that follows through the end of "statute." and inserting the following:

"Background: This policy statement implements 28 U.S.C. 994(t)."

Reason for Amendment: This amendment modifies the policy statement at § 1B1.13 (Reduction in Term of Imprisonment as a Result of Motion by Director of Bureau of Prisons) to further effectuate the directive in 28 U.S.C. 994(t). Section 994(t) provides that the Commission "in promulgating general policy statements regarding the sentence modification provisions in section 3582(c)(1)(A) of title 18, shall describe what should be considered extraordinary and compelling reasons for sentence reduction, including the criteria to be applied and a list of specific examples." The amendment revises Application Note 1(A) of § 1B1.13 to provide four examples of circumstances that, provided the defendant is not a danger to the safety of any other person or to the community, would constitute "extraordinary and compelling reasons" for purposes of 18 U.S.C. 3582(c)(1)(A).

### 2. Transportation

Amendment: The Commentary to § 2A1.1 captioned "Statutory Provisions" is amended by inserting "1992(a)(7)," after "1841(a)(2)(C)," and by inserting "2199, 2291," after "2118(c)(2),".

The Commentary to § 2A1.2 captioned "Statutory Provisions" is amended by inserting "2199, 2291," after "1841(a)(2)(C),".

The Commentary to § 2A1.3 captioned "Statutory Provisions" is amended by inserting "2199, 2291," after "1841(a)(2)(C),".

The Commentary to § 2A1.4 captioned "Statutory Provisions" is amended by inserting "2199, 2291," after "1841(a)(2)(C),".

The Commentary to § 2A1.4 captioned "Application Note" is amended in Note 1 by striking "18 U.S.C. 1993(c)(5)" and inserting "18 U.S.C. 1992(d)(7)".

The Commentary to § 2A2.1 captioned "Statutory Provisions" is amended by striking "1993(a)(6)" and inserting "1992(a)(7), 2199, 2291".

The Commentary to § 2A2.2 captioned "Statutory Provisions" is amended by striking "1993(a)(6)," and inserting "1992(a)(7), 2199, 2291,".

The Commentary to § 2A2.3 captioned "Statutory Provisions" is amended by inserting "2199, 2291" after "1751(e)".

The Commentary to § 2A2.4 captioned "Statutory Provisions" is amended by inserting "2237(a)(1), (a)(2)(A)," after "1502,".

Section 2A5.2 is amended in the heading by inserting "Navigation," after "Dispatch,"; and by striking "or Ferry".

Sections 2A5.2(a)(1) and (a)(2) are amended by striking the comma after "facility" each place it appears and inserting "or"; and by striking "or a ferry" each place it appears.

The Commentary to § 2A5.2 captioned "Statutory Provisions" is amended by striking "1993(a)(4), (5), (6), (b)," and inserting "1992(a)(1), (a)(4), (a)(5), (a)(6);".

The Commentary to § 2A5.2 captioned "Application Note" is amended in Note 1 in the last paragraph by striking "18 U.S.C. 1993(c)(5)" and inserting "18 U.S.C. 1992(d)(7)".

The Commentary to § 2A6.1 captioned "Statutory Provisions" is amended by striking "1993(a)(7), (8)," and inserting "1992(a)(9), (a)(10), 2291(a)(8), 2291(e), 2292,".

Section 2B1.1(b) is amended by striking subdivision (11) and inserting the following:

"(11) If the offense involved an organized scheme to steal or to receive stolen (A) vehicles or vehicle parts; or (B) goods or chattels that are part of a cargo shipment,

increase by 2 levels. If the offense level is less than level 14, increase to level 14.”

The Commentary to § 2B1.1 captioned “Statutory Provisions” is amended by inserting “(a)(1), (a)(5)” after “1992”; by striking “1993(a)(1), (a)(4),”; by inserting “2291,” after “2113(b),”; and by inserting “14915,” after “49 U.S.C. §”.

The Commentary to § 2B1.1 captioned “Application Notes” is amended by striking Note 10 and inserting the following:

“10. Application of Subsection (b)(11).—Subsection (b)(11) provides a minimum offense level in the case of an ongoing, sophisticated operation (e.g., an auto theft ring or ‘chop shop’) to steal or to receive stolen (A) vehicles or vehicle parts; or (B) goods or chattels that are part of a cargo shipment. For purposes of this subsection, ‘vehicle’ means motor vehicle, vessel, or aircraft. A ‘cargo shipment’ includes cargo transported on a railroad car, bus, steamboat, vessel, or airplane.”

Section 2B2.3(b)(1) is amended by striking “secured” each place it appears and inserting “secure”; and by inserting “or a seaport” after “airport”.

The Commentary to § 2B2.3 captioned “Statutory Provisions” is amended by inserting “, 2199” after “1036”.

The Commentary to § 2B2.3 captioned “Application Notes” is amended in Note 1 by adding at the end the following:

“‘Seaport’ has the meaning given that term in 18 U.S.C. 26.”

The Commentary to § 2B2.3 captioned “Background” is amended by striking “secured” before “government” and inserting “secure”; and by striking “, such as nuclear facilities,” and inserting “(such as nuclear facilities) and other locations (such as airports and seaports)”.

The Commentary to § 2C1.1 captioned “Statutory Provisions” is amended by inserting “226,” after “§§ 201(b)(1), (2),”.

The Commentary to § 2K1.4 captioned “Statutory Provisions” is amended by inserting “(a)(1), (a)(2), (a)(4)” after “1992”; by striking “1993(a)(1), (a)(2), (a)(3), (b),”; and by inserting “2291,” after “2275,”.

The Commentary to § 2K1.4 captioned “Application Notes” is amended in Note 1 by striking “18 U.S.C. 1993(c)(5)” and inserting “18 U.S.C. 1992(d)(7)”.

The Commentary to § 2M6.1 captioned “Statutory Provisions” is amended by striking “1993(a)(2), (3), (b), 2332a (only with respect to weapons of mass destruction as defined in 18 U.S.C. 2332a(c)(2)(B), (C), and (D)),” and inserting “1992(a)(2), (a)(3), (a)(4), (b)(2), 2291,”.

The Commentary to § 2Q1.1 captioned “Statutory Provisions” is amended by inserting “18 U.S.C. 1992(b)(3),” before “33 U.S.C. 1319(c)(3),”.

Section 2X1.1 is amended in subsection (d)(1)(A) by inserting “(a)(1)–(a)(7), (a)(9), (a)(10)” after “1992”; and in subsection (d)(1)(B) by inserting “and” after “§ 32,”; and by striking “18 U.S.C. 1993; and”.

The Commentary to § 2X5.2 captioned “Statutory Provisions” is amended by inserting “; 49 U.S.C. 31310” after “14133”.

Appendix A (Statutory Index) is amended by inserting after the line referenced to 18 U.S.C. 225 the following:

“18 U.S.C. 226—2C1.1”

by inserting after the line referenced to 18 U.S.C. 1035 the following:

“18 U.S.C. 1036—2B2.3”;

by striking the line referenced to 18 U.S.C. 1992 through the end of the line referenced to 18 U.S.C. 1993(b) and inserting the following:

“18 U.S.C. 1992(a)(1)—2A5.2, 2B1.1, 2K1.4, 2X1.1

18 U.S.C. 1992(a)(2)—2K1.4, 2M6.1, 2X1.1

18 U.S.C. 1992(a)(3)—2M6.1, 2X1.1

18 U.S.C. 1992(a)(4)—2A5.2, 2K1.4, 2M6.1, 2X1.1

18 U.S.C. 1992(a)(5)—2A5.2, 2B1.1, 2X1.1

18 U.S.C. 1992(a)(6)—2A5.2, 2X1.1

18 U.S.C. 1992(a)(7)—2A1.1, 2A2.1, 2A2.2, 2X1.1

18 U.S.C. 1992(a)(8)—2X1.1

18 U.S.C. 1992(a)(9)—2A6.1, 2X1.1

18 U.S.C. 1992(a)(10)—2A6.1, 2X1.1”;

in the line referenced to 18 U.S.C. 2199 by inserting “2A1.1, 2A1.2, 2A1.3, 2A1.4, 2A2.1, 2A2.2, 2A2.3,” before “2B1.1”;

by inserting after the line referenced to 18 U.S.C. 2233 the following:

“18 U.S.C. 2237(a)(1), (a)(2)(A)—2A2.4

18 U.S.C. 2237(a)(2)(B)—2B1.1”;

by inserting after the line referenced to 18 U.S.C. 2281 the following:

“18 U.S.C. 2291—2A1.1, 2A1.2, 2A1.3,

2A1.4, 2A2.1, 2A2.2, 2A2.3, 2A6.1,

2B1.1, 2K1.4, 2M6.1

18 U.S.C. 2292—2A6.1”;

by inserting after the line referenced to 49 U.S.C. 14912 the following:

“49 U.S.C. 14915—2B1.1”;

and by inserting after the line referenced to 49 U.S.C. 30170 the following:

“49 U.S.C. 31310—2X5.2”.

Reason for Amendment: This amendment implements various provisions of the USA PATRIOT Improvement and Reauthorization Act of 2005, Pub. L. 109–177 (the “PATRIOT Reauthorization Act”) and

the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, Pub. L. 109–59 (“SAFETEA-LU”). The PATRIOT Reauthorization Act created several new offenses and increased the scope of or penalty for several existing offenses. SAFETEA-LU also created two new offenses. This amendment references both the new statutes and those with increased scope and penalties to existing guidelines. The amendment also provides a corresponding amendment to Appendix A (Statutory Index). The Commission concluded that referencing the new offenses to existing guidelines was appropriate because the type of conduct criminalized by the new statutes was adequately addressed and penalized by the guidelines.

Section 307(c) of the PATRIOT Reauthorization Act directed the Commission to review the guidelines to determine whether a sentencing enhancement is appropriate for any offense under sections 659 or 2311 of title 18, United States Code. This amendment responds to the directive by revising the enhancement at subsection (b)(11) of § 2B1.1 (Larceny, Embezzlement, and Other Forms of Theft; Offenses Involving Stolen Property; Property Damage or Destruction; Fraud and Deceit; Forgery; Offenses Involving Altered or Counterfeit Instruments Other than Counterfeit Bearer Obligations of the United States). The amendment expands the scope of this enhancement to cover cargo theft and adds a reference to the receipt of stolen vehicles or goods to ensure application of the enhancement is consistent with the scope of 18 U.S.C. § 659 and 2313. The Commission determined that the two-level increase, and the minimum offense level of 14, appropriately responds to concerns regarding the increased instances of organized cargo theft operations.

### 3. Terrorism

Amendment: The Commentary to § 2A1.1 captioned “Statutory Provisions”, as amended by Amendment 2 of this document, is further amended by inserting “2282A,” after “2199,”.

The Commentary to § 2A1.2 captioned “Statutory Provisions”, as amended by Amendment 2 of this document, is further amended by inserting “2282A,” after “2199”.

The Commentary to § 2B1.1 captioned “Statutory Provisions”, as amended by Amendment 2 of this document, is further amended by inserting “2282A, 2282B,” after “2113(b),”.

The Commentary to § 2B1.5 captioned "Statutory Provisions" is amended by inserting "554," before "641,".

Chapter Two, Part D, Subpart One, is amended by adding at the end the following new guideline and accompanying commentary:

§ 2D1.14. Narco-Terrorism

(a) Base Offense Level:

(1) The offense level from § 2D1.1 (Unlawful Manufacturing, Importing, Exporting, or Trafficking (Including Possession with Intent to Commit These Offenses); Attempt or Conspiracy) applicable to the underlying offense, except that § 2D1.1(a)(3)(A), (a)(3)(B), and (b)(11) shall not apply.

(b) Specific Offense Characteristic

(1) If § 3A1.4 (Terrorism) does not apply, increase by 6 levels.

*Commentary*

Statutory Provision: 21 U.S.C. 960a."

Chapter Two, Part E, Subpart Four, is amended in the heading by adding at the end "AND SMOKELESS TOBACCO".

Section 2E4.1 is amended in the heading by adding at the end "and Smokeless Tobacco".

The Commentary to § 2E4.1 captioned "Background" is amended by striking "60,000" and inserting "10,000".

The Commentary to § 2K1.3 captioned "Statutory Provisions" is amended by inserting ", 2283" after "1716".

Section 2K1.4 is amended in subsections (a)(1) and (a)(2) by striking "a ferry," each place it appears and inserting "a maritime facility, a vessel, or a vessel's cargo,"; in subsection (a)(2) by striking "or" the last place it appears; by redesignating subsection (a)(3) as subsection (a)(4); and by inserting the following after subsection (a)(2):

"(3) 16, if the offense involved the destruction of or tampering with aids to maritime navigation; or".

Section 2K1.4(b)(2) is amended by striking "(a)(3)" and inserting "(a)(4)".

The Commentary to § 2K1.4 captioned "Statutory Provisions", as amended by Amendment 2 of this document, is further amended by inserting "2282A, 2282B," after "2275,".

The Commentary to § 2K1.4 captioned "Application Notes" is amended in Note 1 by inserting after "For purposes of this guideline:" the following paragraph:

" 'Aids to maritime navigation' means any device external to a vessel intended to assist the navigator to determine position or save course, or to warn of dangers or obstructions to navigation.";

by inserting after "destructive device." the following paragraph:

" 'Maritime facility' means any structure or facility of any kind located in, on, under, or

adjacent to any waters subject to the jurisdiction of the United States and used, operated, or maintained by a public or private entity, including any contiguous or adjoining property under common ownership or operation.";

by striking "1993(c)(5)" and inserting "1992(d)(7)"; and by adding at the end the following:

" 'Vessel' includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water."

The Commentary to § 2M5.2 captioned "Statutory Provisions" is amended by inserting "18 U.S.C. 554;" before "22 U.S.C. 2778, 2780."

Section 2M5.3 is amended in the heading by inserting "Specially Designated Global Terrorists, or" after "Organizations or"

The Commentary to § 2M5.3 captioned "Statutory Provisions" is amended by inserting "2283, 2284," after "18 U.S.C. "; and by striking the period at the end and inserting "; 50 U.S.C. 1701, 1705."

The Commentary to § 2M5.3 captioned "Application Notes" is amended in Note 1 by adding at the end the following paragraph:

" 'Specially designated global terrorist' has the meaning given that term in 31 CFR 594.513."

Section 2M6.1 is amended in the heading by striking "Production, Development, Acquisition, Stockpiling, Alteration, Use, Transfer, or Possession of" and inserting "Activity Involving".

The Commentary to § 2M6.1 captioned "Statutory Provisions", as amended by Amendment 2 of this document, is further amended by inserting "2283," before "2291,".

The Commentary to § 2Q2.1 captioned "Statutory Provisions" is amended by inserting "\$" before "545" and by inserting ", 554" after "545".

The Commentary to § 2Q2.1 captioned "Background" is amended by striking "\$ 545 where" and inserting "\$§ 545 and 554 if".

The Commentary to § 2X1.1 captioned "Statutory Provisions" is amended by inserting ", 2282A, 2282B," after "2271,".

The Commentary to § 2X2.1 captioned "Statutory Provisions" is amended by inserting "2284," after "2,".

The Commentary to § 2X3.1 captioned "Statutory Provisions" is amended by inserting "2284," after "1072,".

Chapter Two, Part X is amended by adding at the end the following new subpart, guideline, and accompanying commentary:

**"7. OFFENSES INVOLVING BORDER TUNNELS"**

**§ 2X7.1. Border Tunnels and Subterranean Passages**

(a) Base Offense Level:

(1) If the defendant was convicted under 18 U.S.C. 554(c), 4 plus the offense level applicable to the underlying smuggling offense. If the resulting offense level is less than level 16, increase to level 16.

(2) 16, if the defendant was convicted under 18 U.S.C. 554(a); or

(3) 8, if the defendant was convicted under 18 U.S.C. 554(b).

*Commentary*

Statutory Provision: 18 U.S.C. 554.

Application Note:

1. Definition.—For purposes of this guideline, 'underlying smuggling offense' means the smuggling offense the defendant committed through the use of the tunnel or subterranean passage."

Chapter Five, Part K is amended by adding at the end the following new policy statement and accompanying commentary:

**"§ 5K2.24. Commission of Offense While Wearing or Displaying Unauthorized or Counterfeit Insignia or Uniform (Policy Statement)"**

If, during the commission of the offense, the defendant wore or displayed an official, or counterfeit official, insignia or uniform received in violation of 18 U.S.C. 716, an upward departure may be warranted.

*Commentary*

Application Note:

1. Definition.—For purposes of this policy statement, 'official insignia or uniform' has the meaning given that term in 18 U.S.C. 716(c)(3)."

Appendix A (Statutory Index) is amended by inserting after the line referenced to 18 U.S.C. 553(a)(2) the following:

"18 U.S.C. 554—(Border tunnels and passages)—2X7.1".

18 U.S.C. 554—(Smuggling goods from the United States)—2B1.5, 2M5.2, 2Q2.1".

Appendix A (Statutory Index), as amended by Amendment 2 of this document, is further amended by inserting after the line referenced to 18 U.S.C. 2281 the following:

"18 U.S.C. 2282A—2A1.1, 2A1.2, 2B1.1, 2K1.4, 2X1.1

18 U.S.C. 2282B—2B1.1, 2K1.4, 2X1.1

18 U.S.C. 2283—2K1.3, 2M5.3, 2M6.1

18 U.S.C. 2284—2M5.3, 2X2.1, 2X3.1".

Appendix A (Statutory Index) is amended in the line referenced to 18 U.S.C. 2339 by inserting "2M5.3," before "2X2.1"; by inserting after the line referenced to 21 U.S.C. 960(d)(7) the following:

"21 U.S.C. 960a—2D1.14".

by inserting after the line referenced to 50 U.S.C. 783(c) the following:

“50 U.S.C. 1701—2M5.1, 2M5.2, 2M5.3  
50 U.S.C. 1705—2M5.3”;

and by striking the line referenced to 50 U.S.C. App. § 1701.

Reason for Amendment: This amendment implements the USA PATRIOT Improvement and Reauthorization Act of 2005 (the “PATRIOT Reauthorization Act”), Pub. L. 109–177, and the Department of Homeland Security Appropriations Act, 2007 (the “Homeland Security Act”), Pub. L. 109–295.

First, the amendment addresses section 122 of the PATRIOT Reauthorization Act, which created a new offense at 21 U.S.C. 960a covering narco-terrorism. This new offense prohibits engaging in conduct that would be covered under 21 U.S.C. 841(a) if committed under the jurisdiction of the United States, knowing or intending to provide, directly or indirectly, anything of pecuniary value to any person or organization that has engaged or engages in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act) or terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (This act is made up of separate parts divided by fiscal year)). The penalty is not less than twice the statutory minimum punishment under 21 U.S.C. 841(b)(1) and not more than life. Section 960a also provides a mandatory term of supervised release of at least five years.

The amendment creates a new guideline at § 2D1.14 (Narco-Terrorism) because an offense under 21 U.S.C. 960a differs from basic drug offenses because it involves trafficking that benefits terrorist activity. The guideline also provides that the base offense level is the offense level determined under § 2D1.1 (Unlawful Manufacturing, Importing, Exporting, or Trafficking (Including Possession with Intent to Commit These Offenses); Attempt or Conspiracy) for the underlying offense, except that the “mitigating role cap” in § 2D1.1(a)(3)(A) and (B) and the two-level reduction for meeting the criteria set forth in subdivisions (1)–(5) of subsection (a) of § 5C1.2 (Limitation on Applicability of Statutory Minimum Sentences in Certain Cases) shall not apply. The Commission determined that these exclusions are appropriate to reflect that this is not a typical drug offense, in that an individual convicted under this provision must have had knowledge that the person or organization receiving the funds or support generated by the drug trafficking “has engaged or engages in

terrorist activity \* \* \* or terrorism \* \* \*.” The guideline also contains a specific offense characteristic that provides a six-level increase if the adjustment in § 3A1.4 (Terrorism) does not apply. This six-level increase fully effectuates the statute’s doubling of the minimum punishment for the underlying drug offense, while avoiding potential double counting with the 12-level adjustment at § 3A1.4. The amendment also provides a corresponding reference for the new offense to § 2D1.14 in Appendix A (Statutory Index).

Second, the amendment responds to the directive in section 551 of the Homeland Security Act, which created a new offense in 18 U.S.C. 554 regarding the construction of border tunnels and subterranean passages that cross the international boundary between the United States and another country. Section 551(c) of the Homeland Security Act directed the Commission to promulgate or amend the guidelines to provide for increased penalties for persons convicted of offenses under 18 U.S.C. 554 and required the Commission to consider a number of factors. Section 554(a) prohibits the construction or financing of such tunnels and passages and provides a statutory maximum term of imprisonment of 20 years. Section 554(b) prohibits the knowing or reckless disregard of the construction on land the person owns or controls and provides a statutory maximum term of imprisonment of 10 years. Section 554(c) prohibits the use of the tunnels to smuggle an alien, goods (in violation of 18 U.S.C. 545), controlled substances, weapons of mass destruction (including biological weapons), or a member of a terrorist organization (defined in 18 U.S.C. 2339B(g)(6)) and provides a penalty of twice the maximum term of imprisonment that otherwise would have been applicable had the unlawful activity not made use of the tunnel or passage.

The amendment creates a new guideline at § 2X7.1 (Border Tunnels and Subterranean Passages) for convictions under 18 U.S.C. 554. The new guideline provides that a conviction under 18 U.S.C. 554(a) receives a base offense level 16, which is commensurate with certain other offenses with statutory maximum terms of imprisonment of 20 years and ensures a sentence of imprisonment. A conviction under 18 U.S.C. 554(c) will receive a four-level increase over the offense level applicable to the underlying smuggling offense, which ensures that the seriousness of the underlying offense is the primary

measure of offense severity. The four-level increase also satisfies the directive’s instruction to account for the aggravating nature of the use of a tunnel or subterranean passage to breach the border to accomplish the smuggling offense and effectuates the statute’s doubling of the statutory maximum penalty. A conviction under 18 U.S.C. 554(b) receives a base offense level of 8, which reflects the less aggravated nature of this offense.

Third, the amendment addresses other new offenses created by the PATRIOT Reauthorization Act. Based on an assessment of similar offenses already covered by the relevant guidelines, the amendment provides as follows:

(A) The new offense in 18 U.S.C. 554, pertaining to smuggling of goods from the United States, is referenced to §§ 2B1.5 (Theft of, Damage to, or Destruction of, Cultural Heritage Resources; Unlawful Sale, Purchase, Exchange, Transportation, or Receipt of Cultural Heritage Resources), 2M5.2 (Exportation of Arms, Munitions, or Military Equipment or Services Without Required Validated Export License), and 2Q2.1 (Offenses Involving Fish, Wildlife, and Plants).

(B) The new offense in 18 U.S.C. 2282A, pertaining to mining of United States navigable waters, is referenced to §§ 2A1.1 (First Degree Murder), 2A1.2 (Second Degree Murder), 2B1.1 (Larceny, Embezzlement, and Other Forms of Theft; Offenses Involving Stolen Property; Property Damage or Destruction; Fraud and Deceit; Forgery; Offenses Involving Altered or Counterfeit Instruments Other than Counterfeit Bearer Obligations of the United States), 2K1.4 (Arson; Property Damage by Use of Explosives), and 2X1.1 (Attempt, Solicitation, or Conspiracy (Not Covered by a Specific Offense Guideline)). The amendment also adds vessel, maritime facility, and a vessel’s cargo to § 2K1.4(a)(1) and (a)(2) to cover conduct described in 18 U.S.C. 2282A. The definitions provided for “vessel,” “maritime facility,” and “aids to maritime navigation” come from title 33 of the Code of Federal Regulations pertaining to the United States Coast Guard, specifically Navigation and Navigable Waters.

Section 2282B, pertaining to violence against maritime navigational aids, is referenced to §§ 2B1.1, 2K1.4, and 2X1.1. Section 2K1.4(a) is amended to provide a new base offense level of 16 if the offense involved the destruction of or tampering with aids to maritime navigation.

(C) The new offense in 18 U.S.C. 2283 pertaining to transporting biological and



chemical weapons is referenced to §§ 2K1.3 (Unlawful Receipt, Possession, or Transportation of Explosive Materials; Prohibited Transactions Involving Explosive Materials), 2M5.3 (Providing Material Support or Resources to Designated Foreign Terrorism Organizations or For a Terrorist Purpose), and 2M6.1 (Unlawful Production, Development, Acquisition, Stockpiling, Alteration, Use, Transfer, or Possession of Nuclear Material, Weapons, or Facilities, Biological Agents, Toxins, or Delivery Systems, Chemical Weapons, or Other Weapons of Mass Destruction; Attempt or Conspiracy). The new offense in 18 U.S.C. 2284 pertaining to transporting terrorists is referenced to §§ 2M5.3 (Providing Material Support or Resources to Designated Foreign Terrorism Organizations or For a Terrorist Purpose), 2X2.1 (Aiding and Abetting), and 2X3.1 (Accessory After the Fact).

(D) Section 2341 of title 18, United States Code, which provides definitions for offenses involving contraband cigarettes and smokeless tobacco, was amended to reduce the number of contraband cigarettes necessary to violate the substantive offenses set forth in 18 U.S.C. 2342 and 2344 from 60,000 to 10,000. The amendment makes conforming changes to the background commentary of § 2E4.1 (Unlawful Conduct Relating to Contraband Cigarettes) and expands the headings of Chapter Two, Part E, Subpart 4 and § 2E4.1 to include smokeless tobacco.

(E) The Patriot Reauthorization Act increased the statutory maximum term of imprisonment for offenses covered by the International Emergency Economic Powers Act (50 U.S.C. 1705) from 10 years to 20 years' imprisonment. The amendment references 50 U.S.C. 1705 to § 2M5.3 and modifies the heading of the guideline to include "specially designated global terrorist".

Fourth, the amendment sets forth the statutory references in Appendix A (Statutory Index) for the new offenses. Appendix A is amended to provide a parenthetical description for the two statutory references to 18 U.S.C. 554 created by the PATRIOT Reauthorization Act.

Fifth, the amendment implements a directive in section 1191(c) of the Violence Against Women and Department of Justice Reauthorization Act of 2005, Pub. L. 109-162. The Act directed the Commission to amend the guidelines "to assure that the sentence imposed on a defendant who is convicted of a Federal offense while wearing or displaying insignia and uniform received in violation of section

716 of title 18, United States Code, reflects the gravity of this aggravating factor." Section 716 of title 18, United States Code, is a Class B misdemeanor which is not covered by the guidelines, see § 1B1.9 (Class B or C Misdemeanors and Infractions); however, the amendment creates a new policy statement at § 5K2.24 (Commission of Offense While Wearing or Displaying Unauthorized or Counterfeit Insignia or Uniform) providing that an upward departure may be warranted if, during the commission of the offense, the defendant wore or displayed an official, or counterfeit official, insignia or uniform received in violation of 18 U.S.C. 716.

#### 4. Sex Offenses

Amendment: Chapter Two, Part A, Subpart Three, is amended in the heading by adding at the end "AND OFFENSES RELATED TO REGISTRATION AS A SEX OFFENDER".

Section 2A3.1(a) is amended by striking "30" and inserting the following:

- "(1) 38, if the defendant was convicted under 18 U.S.C. 2241(c); or
- (2) 30, otherwise."

Section 2A3.1(b)(2) is amended by striking "(A) If" and inserting "If subsection (a)(2) applies and (A)"; and by striking "if" after "(B)".

The Commentary to § 2A3.1 captioned "Application Notes" is amended in Note 2 by inserting "(A) Definitions.—" before "For purposes of"; and by adding at the end the following subdivision:

"(B) Application in Cases Involving a Conviction under 18 U.S.C. 2241(c).—If the conduct that forms the basis for a conviction under 18 U.S.C. 2241(c) is that the defendant engaged in conduct described in 18 U.S.C. 2241(a) or (b), do not apply subsection (b)(1)."

The Commentary to § 2A3.1 is amended by striking "Background" and all that follows through the end of "abduction."

Section 2A3.3(a) is amended by striking "12" and inserting "14".

The Commentary to § 2A3.3 captioned "Application Notes" is amended in Note 1 by striking "'Minor' means an individual who had not attained the age of 18 years." and inserting the following:

"'Minor' means (A) an individual who had not attained the age of 18; (B) an individual, whether fictitious or not, who a law enforcement officer represented to a participant (i) had not attained the age of 18 years; and (ii) could be provided for the purposes of engaging in sexually explicit conduct; or (C) an undercover law enforcement officer who represented to a

participant that the officer had not attained the age of 18 years."

The Commentary to § 2A3.3 captioned "Application Notes" is amended by adding at the end the following:

"4. Inapplicability of § 3B1.3.—Do not apply § 3B1.3 (Abuse of Position of Trust or Use of Special Skill)."

The Commentary to § 2A3.3 is amended by striking "Background" and all that follows through the end of "year."

Section 2A3.4(b)(1) is amended by striking "20" each place it appears and inserting "22".

The Commentary to § 2A3.4 captioned "Statutory Provisions" is amended by striking "(a)(1), (2), (3)" after "§ 2244".

The Commentary to § 2A3.4 captioned "Background" is amended by striking "Enhancements are provided" and all that follows through the end of "sixteen years."

Chapter Two, Part A, Subpart Three, is amended by adding at the end the following new guidelines and accompanying commentaries:

#### "§ 2A3.5. Failure To Register as a Sex Offender

(a) Base Offense Level (apply the greatest):

- (1) 16, if the defendant was required to register as a Tier III offender;
- (2) 14, if the defendant was required to register as a Tier II offender; or
- (3) 12, if the defendant was required to register as a Tier I offender.

(b) Specific Offense Characteristics

(1) (Apply the greatest):

If, while in a failure to register status, the defendant committed—

(A) a sex offense against someone other

than a minor increase by 6 levels;

(B) a felony offense against a minor not otherwise covered by subdivision (C), increase by 6 levels; or

(C) a sex offense against a minor, increase by 8 levels.

(2) If the defendant voluntarily (A) corrected the failure to register; or (B) attempted to register but was prevented from registering by uncontrollable circumstances and the defendant did not contribute to the creation of those circumstances, decrease by 3 levels.

#### Commentary

Statutory Provision: 18 U.S.C. 2250(a).

Application Notes:

1. Definitions.—For purposes of this guideline:

'Minor' means (A) an individual who had not attained the age of 18 years; (B) an individual, whether fictitious or not, who a law enforcement officer represented to a participant (i) had not attained the age of 18 years; and (ii) could be provided for the purposes of engaging in sexually explicit conduct; or (C) an undercover law enforcement officer who represented to a participant that the officer had not attained the age of 18 years.

'Sex offense' has the meaning given that term in 42 U.S.C. 16911(5).

"Tier I offender," "tier II offender," and "tier III offender" have the meaning given those terms in 42 U.S.C. 16911(2), (3) and (4), respectively.

2. Application of Subsection (b)(2).—

(A) In General.—In order for subsection (b)(2) to apply, the defendant's voluntary attempt to register or to correct the failure to register must have occurred prior to the time the defendant knew or reasonably should have known a jurisdiction had detected the failure to register.

(B) Interaction with Subsection (b)(1).—Do not apply subsection (b)(2) if subsection (b)(1) also applies.

#### § 2A3.6. Aggravated Offenses Relating to Registration as a Sex Offender

If the defendant was convicted under—

(a) 18 U.S.C. 2250(c), the guideline sentence is the minimum term of imprisonment required by statute; or  
(b) 18 U.S.C. 2260A, the guideline sentence is the term of imprisonment required by statute.

Chapters Three (Adjustments) and Four (Criminal History and Criminal Livelihood) shall not apply to any count of conviction covered by this guideline.

#### Commentary

Statutory Provisions: 18 U.S.C. 2250(c), 2260A.

##### Application Notes:

1. In General.—Section 2250(c) of title 18, United States Code, provides a mandatory minimum term of five years' imprisonment and a statutory maximum term of 30 years' imprisonment. The statute also requires a sentence to be imposed consecutively to any sentence imposed for a conviction under 18 U.S.C. 2250(a). Section 2260A of title 18, United States Code, provides a term of imprisonment of 10 years that is required to be imposed consecutively to any sentence imposed for an offense enumerated under that section.

2. Inapplicability of Chapters Three and Four.—Do not apply Chapters Three (Adjustments) and Four (Criminal History and Criminal Livelihood) to any offense sentenced under this guideline. Such offenses are excluded from application of those chapters because the guideline sentence for each offense is determined only by the relevant statute. See §§ 3D1.1 (Procedure for Determining Offense Level on Multiple Counts) and 5G1.2 (Sentencing on Multiple Counts of Conviction).

3. Inapplicability of Chapter Two Enhancement.—If a sentence under this guideline is imposed in conjunction with a sentence for an underlying offense, do not apply any specific offense characteristic that is based on the same conduct as the conduct comprising the conviction under 18 U.S.C. 2250(c) or § 2260A.

4. Upward Departure.—In a case in which the guideline sentence is determined under subsection (a), a sentence above the minimum term required by 18 U.S.C. 2250(c) is an upward departure from the guideline sentence. A departure may be warranted, for example, in a case involving a sex offense

committed against a minor or if the offense resulted in serious bodily injury to a minor."

Section 2G1.1(a) is amended by striking "14" and inserting the following:

"(1) 34, if the offense of conviction is 18 U.S.C. 1591(b)(1); or  
(2) 14, otherwise."

Section 2G1.1(b)(1) is amended by inserting "(A) subsection (a)(2) applies; and (B)" after "IF".

The Commentary to § 2G1.1 is amended by striking "Background" and all that follows through the end of "Minor."

Section 2G1.3(a) is amended by striking "24" and inserting the following:

"(1) 34, if the defendant was convicted under 18 U.S.C. 1591(b)(1);  
(2) 30, if the defendant was convicted under 18 U.S.C. 1591(b)(2);  
(3) 28, if the defendant was convicted under 18 U.S.C. 2422(b) or § 2423(a); or  
(4) 24, otherwise."

Section 2G1.3(b) is amended by striking subdivision (4) and inserting the following:

"(4) If (A) the offense involved the commission of a sex act or sexual contact; or (B) subsection (a)(3) or (a)(4) applies and the offense involved a commercial sex act, increase by 2 levels."

Section 2G1.3(b)(5) is amended by inserting "(A) subsection (a)(3) or (a)(4) applies; and (B)" after "IF".

The Commentary to § 2G1.3 captioned "Statutory Provisions" is amended by striking "2422(b)".

The Commentary to § 2G1.3 is amended by striking "Background" and all that follows through the end of "Minor."

The Commentary to § 2G2.5 captioned "Statutory Provisions" is amended by inserting "\$" after "18 U.S.C. §"; and by inserting ", 2257A" after "2257".

Chapter Two, Part G, Subpart Two, is amended by adding at the end the following new guideline and accompanying commentary:

#### "§ 2G2.6. Child Exploitation Enterprises

(a) Base Offense Level: 35  
(b) Specific Offense Characteristics

(1) If a victim (A) had not attained the age of 12 years, increase by 4 levels; or (B) had attained the age of 12 years but had not attained the age of 16 years, increase by 2 levels.

(2) If (A) the defendant was a parent, relative, or legal guardian of a minor victim; or (B) a minor victim was otherwise in the custody, care, or supervisory control of the defendant, increase by 2 levels.

(3) If the offense involved conduct described in 18 U.S.C. 2241(a) or (b), increase by 2 levels.

(4) If a computer or an interactive computer service was used in furtherance of the offense, increase by 2 levels.

#### Commentary

Statutory Provision: 18 U.S.C. 2252A(g).

##### Application Notes:

1. Definitions.—For purposes of this guideline:

'Computer' has the meaning given that term in 18 U.S.C. 1030(e)(1).

'Interactive computer service' has the meaning given that term in section 230(e)(2) of the Communications Act of 1934 (47 U.S.C. 230(f)(2)).

'Minor' means (A) an individual who had not attained the age of 18 years; (B) an individual, whether fictitious or not, who a law enforcement officer represented to a participant (i) had not attained the age of 18 years; and (ii) could be provided for the purposes of engaging in sexually explicit conduct; or (C) an undercover law enforcement officer who represented to a participant that the officer had not attained the age of 18 years.

2. Application of Subsection (b)(2).—

(A) Custody, Care, or Supervisory Control.—Subsection (b)(2) is intended to have broad application and includes offenses involving a victim less than 18 years of age entrusted to the defendant, whether temporarily or permanently. For example, teachers, day care providers, baby-sitters, or other temporary caretakers are among those who would be subject to this enhancement. In determining whether to apply this enhancement, the court should look to the actual relationship that existed between the defendant and the minor and not simply to the legal status of the defendant-minor relationship.

(B) Inapplicability of Chapter Three Adjustment.—If the enhancement under subsection (b)(2) applies, do not apply § 3B1.3 (Abuse of Position of Trust or Use of Special Skill).

3. Application of Subsection (b)(3).—For purposes of subsection (b)(3), 'conduct described in 18 U.S.C. 2241(a) or (b)' is: (i) using force against the minor; (ii) threatening or placing the minor in fear that any person will be subject to death, serious bodily injury, or kidnapping; (iii) rendering the minor unconscious; or (iv) administering by force or threat of force, or without the knowledge or permission of the minor, a drug, intoxicant, or other similar substance and thereby substantially impairing the ability of the minor to appraise or control conduct. This provision would apply, for example, if any dangerous weapon was used or brandished, or in a case in which the ability of the minor to appraise or control conduct was substantially impaired by drugs or alcohol."

Section 2G3.1(b) is amended by striking subdivision (2) and inserting the following:

"(2) If, with the intent to deceive a minor into viewing material that is harmful to minors, the offense involved the use of (A) a misleading domain name on the Internet; or (B) embedded words or digital images in the source code of a Web site, increase by 2 levels."

The Commentary to § 2G3.1 captioned "Statutory Provisions" is amended by inserting ", 2252C" after "2252B".

The Commentary to § 2G3.1 captioned "Application Notes" is amended in Note 2 by inserting "or § 2252C" after "2252B".

Section 2J1.2(b) is amended in subdivision (1) by striking "greater" and inserting "greatest"; by redesignating subdivisions (A) and (B) as subdivisions (B) and (C), respectively; by inserting before subdivision (B), as redesignated by this amendment, the following:

"(A) If the (i) defendant was convicted under 18 U.S.C. 1001; and (ii) statutory maximum term of eight years' imprisonment applies because the matter relates to sex offenses under 18 U.S.C. 1591 or chapters 109A, 109B, 110, or 117 of title 18, United States Code, increase by 4 levels."; and by striking subdivision (C), as redesignated by this amendment, and inserting the following:

"(C) If the (i) defendant was convicted under 18 U.S.C. 1001 or 1505; and (ii) statutory maximum term of eight years' imprisonment applies because the matter relates to international terrorism or domestic terrorism, increase by 12 levels.".

The Commentary to § 2J1.2 captioned "Statutory Provisions" is amended by striking "when the statutory maximum" and all that follows through "applicable," and inserting the following:

"(when the statutory maximum term of eight years' imprisonment applies because the matter relates to international terrorism or domestic terrorism, or to sex offenses under 18 U.S.C. 1591 or chapters 109A, 109B, 110, or 117 of title 18, United States Code);".

The Commentary to § 2J1.2 captioned "Application Notes" is amended in Note 2(B) by striking "(b)(1)(B)" and inserting "(b)(1)(C)".

The Commentary to § 2J1.2 captioned "Application Notes" is amended in Note 4 by inserting "or a particularly serious sex offense" after "face)".

The Commentary to § 2J1.2 captioned "Application Notes" is amended in Note 5 by inserting "(B)" after "Subsection (b)(1)" each place it appears; and by inserting "(B)" after "under subsection (b)(1)".

Section 3D1.2(d) is amended by inserting as a new line "§ 2A3.5;" before the line that begins "§§ 2B1.1"; and by inserting "(except § 2A3.5)" after "Chapter Two, Part A".

The Commentary to § 4B1.5 captioned "Application Notes" is amended by striking Note 1 and inserting the following:

"1. Definition.—For purposes of this guideline, 'minor' means (A) an individual who had not attained the age of 18 years; (B) an individual, whether fictitious or not, who a law enforcement officer represented to a participant (i) had not attained the age of 18

years; and (ii) could be provided for the purposes of engaging in sexually explicit conduct; or (C) an undercover law enforcement officer who represented to a participant that the officer had not attained the age of 18 years.".

The Commentary to § 4B1.5 captioned "Application Notes" is amended in Note 2 by inserting "or (iv) 18 U.S.C. 1591;" after "individual;"; and by striking "(iii)" after "through" and inserting "(iv)".

The Commentary to § 4B1.5 captioned "Background" is amended by striking the first and second sentences and inserting: "This guideline applies to offenders whose instant offense of conviction is a sex offense committed against a minor and who present a continuing danger to the public.".

Section 5B1.3(a)(9) is amended by inserting "(A) in a state in which the requirements of the Sex Offender Registration and Notification Act (*see* 42 U.S.C. 16911 and 16913) do not apply," before "a defendant convicted"; by inserting "(Pub. L. 105–119, § 115(a)(8), Nov. 26, 1997)" after "4042(c)(4)"; by inserting "or" after "student;"; and by adding at the end the following:

"(B) in a state in which the requirements of Sex Offender Registration and Notification Act apply, a sex offender shall (i) register, and keep such registration current, where the offender resides, where the offender is an employee, and where the offender is a student, and for the initial registration, a sex offender also shall register in the jurisdiction in which convicted if such jurisdiction is different from the jurisdiction of residence; (ii) provide information required by 42 U.S.C. 16914; and (iii) keep such registration current for the full registration period as set forth in 42 U.S.C. 16915;".

Section 5B1.3(d)(7) is amended by adding at the end the following:

"(C) A condition requiring the defendant to submit to a search, at any time, with or without a warrant, and by any law enforcement or probation officer, of the defendant's person and any property, house, residence, vehicle, papers, computer, other electronic communication or data storage devices or media, and effects, upon reasonable suspicion concerning a violation of a condition of probation or unlawful conduct by the defendant, or by any probation officer in the lawful discharge of the officer's supervision functions.".

Section 5B1.3 is amended by adding at the end the following:

#### Commentary

##### Application Note:

1. Application of Subsection (b)(9)(A) and (B).—Some jurisdictions continue to register sex offenders pursuant to the sex offender registry in place prior to July 27, 2006, the date of enactment of the Adam Walsh Act, which contained the Sex Offender Registration and Notification Act. In such a

jurisdiction, subsection (b)(9)(A) will apply. In a jurisdiction that has implemented the requirements of the Sex Offender Registration and Notification Act, subsection (b)(9)(B) will apply. (*See* 42 U.S.C. 16911 and 16913.)".

The Commentary to § 5D1.2 captioned "Application Notes" is amended by striking Note 1 and inserting:

"1. Definitions.—For purposes of this guideline:

'Sex offense' means (A) an offense, perpetrated against a minor, under (i) chapter 109A of title 18, United States Code; (ii) chapter 109B of such title; (iii) chapter 110 of such title, not including a recordkeeping offense; (iv) chapter 117 of such title, not including transmitting information about a minor or filing a factual statement about an alien individual; (v) an offense under 18 U.S.C. 1201; or (vi) an offense under 18 U.S.C. 1591; or (B) an attempt or a conspiracy to commit any offense described in subdivisions (A)(i) through (vi) of this note.

'Minor' means (A) an individual who had not attained the age of 18 years; (B) an individual, whether fictitious or not, who a law enforcement officer represented to a participant (i) had not attained the age of 18 years; and (ii) could be provided for the purposes of engaging in sexually explicit conduct; or (C) an undercover law enforcement officer who represented to a participant that the officer had not attained the age of 18 years.".

Section 5D1.3(a)(7) is amended by inserting "(A) in a state in which the requirements of the Sex Offender Registration and Notification Act (*see* 42 U.S.C. 16911 and 16913) do not apply," before "a defendant"; by inserting "(Pub. L. 105–119, § 115(a)(8), Nov. 26, 1997)" after "4042(c)(4)"; by inserting "or" after "student;"; and by adding at the end the following:

"(B) in a state in which the requirements of Sex Offender Registration and Notification Act apply, a sex offender shall (i) register, and keep such registration current, where the offender resides, where the offender is an employee, and where the offender is a student, and for the initial registration, a sex offender also shall register in the jurisdiction in which convicted if such jurisdiction is different from the jurisdiction of residence; (ii) provide information required by 42 U.S.C. 16914; and (iii) keep such registration current for the full registration period as set forth in 42 U.S.C. 16915;".

Section 5D1.3(d)(7) is amended by adding at the end the following:

"(C) A condition requiring the defendant to submit to a search, at any time, with or without a warrant, and by any law enforcement or probation officer, of the defendant's person and any property, house, residence, vehicle, papers, computer, other electronic communication or data storage devices or media, and effects upon reasonable suspicion concerning a violation of a condition of supervised release or unlawful conduct by the defendant, or by any probation officer in the lawful discharge of the officer's supervision functions.".

Section 5D1.3 is amended by adding at the end the following:

*“Commentary*

*Application Note:*

1. Application of Subsection (b)(7)(A) and (B).—Some jurisdictions continue to register sex offenders pursuant to the sex offender registry in place prior to July 27, 2006, the date of enactment of the Adam Walsh Act, which contained the Sex Offender Registration and Notification Act. In such a jurisdiction, subsection (b)(7)(A) will apply. In a jurisdiction that has implemented the requirements of the Sex Offender Registration and Notification Act, subsection (b)(7)(B) will apply. (*See* 42 U.S.C. 16911 and 16913.)”.

Appendix A (Statutory Index) is amended in the line referenced to 18 U.S.C. 1001 by striking “when the statutory” and all that follows through “applicable” and inserting the following:

“(when the statutory maximum term of eight years’ imprisonment applies because the matter relates to international terrorism or domestic terrorism, or to sex offenses under 18 U.S.C. 1591 or chapters 109A, 109B, 110, or 117 of title 18, United States Code)”.

Appendix A (Statutory Index) is amended by inserting after the line referenced to 18 U.S.C. 2245 the following:

“18 U.S.C. 2250(a)—2A3.5

18 U.S.C. 2250(c)—2A3.6”;

by inserting after the line referenced to 18 U.S.C. 2252B the following:

“18 U.S.C. 2252C—2G3.1”;

by inserting after the line referenced to 18 U.S.C. 2257 the following:

“18 U.S.C. 2257A—2G2.5”;

and by inserting after the line referenced to 18 U.S.C. 2260(b) the following:

“18 U.S.C. 2260A 2A3.6”—

Reason for Amendment: This amendment responds to the Adam Walsh Child Protection and Safety Act of 2006 (the “Adam Walsh Act”), Pub. L. 109–248, which contained a directive to the Commission, created new sexual offenses, and enhanced penalties for existing sexual offenses. The amendment implements the directive by creating two new guidelines, §§ 2A3.5 (Criminal Sexual Abuse and Offenses Related to Registration as a Sex Offender) and 2A3.6 (Aggravated Offenses Relating to Registration as a Sex Offender). It further addresses relevant provisions in the Adam Walsh Act by making changes to Chapter Two, Part A, Subpart 3 (Criminal Sexual Abuse) and Part G (Offenses Involving Commercial Sex Acts, Sexual Exploitation of Minors, and Obscenity), § 2J1.2 (Obstruction of Justice), § 3D1.2 (Groups of Closely Related Counts),

§ 4B1.5 (Repeat and Dangerous Sex Offender Against Minors), § 5B1.3 (Conditions of Probation), § 5D1.2 (Term of Supervised Release), § 5D1.3 (Conditions of Supervised Release) and Appendix A (Statutory Index).

First, section 206 of the Adam Walsh Act amended 18 U.S.C. 2241(c) to add a new mandatory minimum term of imprisonment of 30 years for offenses related to the aggravated sexual abuse of a child under 12 years old, or of a child between 12 and 16 years old if force, threat, or other means was used. In response to the new mandatory minimum for these offenses, the amendment increases the base offense level at § 2A3.1 (Criminal Sexual Abuse; Attempt to Commit Criminal Sexual Abuse) from level 30 to level 38. The base offense level of 30 has been retained for all other offenses. At least one specific offense characteristic applied to every conviction under 18 U.S.C. 2241(c) sentenced under § 2A3.1 in fiscal year 2006. Accordingly, the mandatory minimum 360 months’ imprisonment is expected to be reached or exceeded in every case with a base offense level of 38.

The amendment provides a new application note that precludes application of the specific offense characteristic at § 2A3.1(b)(1) regarding conduct described in 18 U.S.C. 2241(a) or (b) if the conduct that forms the basis for a conviction under 18 U.S.C. 2241(c) is that the defendant engaged in conduct described in 18 U.S.C. 2241(a) or (b) (force, threat, or other means). The amendment also precludes application of the specific offense characteristic for the age of a victim at § 2A3.1(b)(2) if the defendant was convicted under section 2241(c). The heightened base offense level of 38 takes into account the age of the victim. These instructions, therefore, avoid unwarranted double counting.

Second, section 207 of the Adam Walsh Act increased the statutory maximum term of imprisonment under 18 U.S.C. 2243(b) from 5 years to 15 years for the sexual abuse of a person in official detention or under custodial authority. In response to increased penalty, the amendment increases the base offense level from 12 to 14 in § 2A3.3 (Criminal Sexual Abuse of a Ward or Attempt to Commit Such Acts). The amendment also adds a new definition of “minor” consistent with how this term is defined elsewhere in the guidelines manual. In addition, the amendment includes an application note precluding application of § 3B1.3 (Abuse of Position of Trust or Use of Special Skill) for these offenses because an abuse of position of trust is assumed

in all such cases and, therefore, is built into the base offense level.

Third, section 206 of the Adam Walsh Act created a new subsection at 18 U.S.C. 2244. Section 2244(a)(5) provides a penalty of any term of years if the sexual conduct would have violated 18 U.S.C. 2241(c) had the contact been a sexual act. Section 2241(c) conduct involves the aggravated sexual abuse of a child under 12 years old or of a child between 12 and 16 years old if force, threat, or other means was used, as defined in 18 U.S.C. 2241(a) and (b). Prior to the Adam Walsh Act, the penalty for offenses involving children under 12 years old was “twice that otherwise provided,” and the penalty for sexual contact involving behavior described in 18 U.S.C. 2241 was a statutory maximum term of imprisonment of 10 years.

The amendment addresses this new offense by increasing the minimum offense level in the age enhancement in subsection (b)(1) of § 2A3.4 (Abusive Sexual Contact or Attempt to Commit Abusive Sexual Contact) from level 20 to level 22.

Fourth, section 141 of the Adam Walsh Act created a new offense under 18 U.S.C. 2250(a) for the failure to register as a sex offender. The basic offense carries a statutory maximum term of imprisonment of 10 years. Section 141 also included a directive to the Commission that when promulgating guidelines for the offense, to consider, among other factors, the seriousness of the sex offender’s conviction that gave rise to the requirement to register; relevant further offense conduct during the period for which the defendant failed to register; and the offender’s criminal history.

The amendment creates a new guideline, § 2A3.5 (Failure to Register as a Sex Offender), to address the directive. The new guideline provides three alternative base offense levels based on the tiered category of the sex offender: level 16 if the defendant was required to register as a Tier III offender; level 14 if the defendant was required to register as a Tier II offender; and level 12 if the defendant was required to register as a Tier I offender.

The amendment also provides two specific offense characteristics. First, subsection (b)(1) provides a tiered enhancement to address criminal conduct committed while the defendant is in a failure to register status. Specifically, § 2A3.5(b)(1) provides a six-level increase if, while in a failure to register status, the defendant committed a sex offense against an adult, a six-level increase if the defendant committed a felony offense against a minor, and an

eight-level increase if the defendant committed a sex offense against a minor. Second, § 2A3.5(b)(2) provides a three-level decrease if the defendant voluntarily corrected the failure to register or voluntarily attempted to register but was prevented from registering by uncontrollable circumstances, and the defendant did not contribute to the creation of those circumstances. The reduction covers cases in which (1) the defendant either does not attempt to register until after the relevant registration period has expired but subsequently successfully registers, thereby correcting the failure to register status, or (2) the defendant, either before or after the registration period has expired, attempted to register but circumstances beyond the defendant's control prevented the defendant from successfully registering. An application note specifies that the voluntary attempt to register or to correct the failure to register must have occurred prior to the time the defendant knew or reasonably should have known a jurisdiction had detected the failure to register. The application note also provides that the reduction does not apply if the enhancement for committing one of the enumerated offenses in § 2A3.5(b)(1) applies.

Additionally, the amendment adds § 2A3.5 to the list of offenses that are considered groupable under § 3D1.2(d) because the failure to register offense is an ongoing and continuous offense.

Fifth, section 141 of the Adam Walsh Act created two new aggravated offenses relating to the registration as a sex offender. Section 141 of the Act created 18 U.S.C. 2250(c), which carries a mandatory minimum term of imprisonment of 5 years and a statutory maximum term of imprisonment of 30 years if a defendant commits a crime of violence while in a failure to register status, with the sentence to be consecutive to the punishment provided for the failure to register. Section 702 of the Adam Walsh Act created a new offense at 18 U.S.C. 2260A that prohibits the commission of various enumerated offenses while in a failure to register status. The penalty for this offense is a mandatory term of imprisonment of 10 years to be imposed consecutively to the underlying offense.

The amendment creates a new guideline at § 2A3.6 (Aggravated Offenses Relating to Registration as a Sex Offender) to address these new offenses. The new guideline provides that for offenses under section 2250(c), the guideline sentence is the minimum term of imprisonment required by statute, and for offenses under section 2260A, the guideline sentence is the

term of imprisonment required by statute. Chapters Three and Four are not to apply. This is consistent with how the guidelines treat other offenses that carry both a specified term of imprisonment and a requirement that such term be imposed consecutively. See §§ 3D1.1 (Procedure for Determining Offense Level on Multiple Counts) and 5G1.2 (Sentencing on Multiple Counts of Conviction).

The guideline includes an application note that provides an upward departure stating that a sentence above the minimum term required by section 2250(c) is an upward departure from the guideline sentence. An upward departure may be warranted, for example, in a case involving a sex offense committed against a minor or if the offense resulted in serious bodily injury to a minor.

Sixth, section 208 of the Adam Walsh Act added a new mandatory minimum term of imprisonment of 15 years under 18 U.S.C. 1591(b)(1) for sex trafficking of an adult by force, fraud, or coercion. In response, the amendment provides a new base offense level of 34 in § 2G1.1 (Promoting a Commercial Sex Act or Prohibited Sexual Conduct with an Individual Other than a Minor) if the offense of conviction is 18 U.S.C. 1591(b)(1), but retains a base offense level of 14 for all other offenses. In addition, the amendment limits application of the specific offense characteristic at § 2G1.1(b)(1) that applies if the offense involved fraud or coercion only to those offenses receiving a base offense level of 14. Offenses under 18 U.S.C. 1591(b)(1) necessarily involve fraud and coercion and, therefore, such conduct is built into the heightened base offense level of 34. This limitation thus avoids unwarranted double counting.

Seventh, section 208 of the Adam Walsh Act added a new mandatory minimum term of imprisonment of 15 years under 18 U.S.C. 1591(b)(1) for sex trafficking of children under 14 years of age and added a new mandatory minimum term of imprisonment of 10 years and increased the statutory maximum term of imprisonment from 40 years to life under 18 U.S.C. 1591(b)(2) for sex trafficking of children who had attained the age of 14 years but had not attained the age of 18 years. Further, the Adam Walsh Act increased the mandatory minimum term of imprisonment from 5 years to 10 years and increased the statutory maximum term of imprisonment from 30 years to life under both 18 U.S.C. 2422(b), for persuading or enticing any person who has not attained the age of 18 years to engage in prostitution or any sexual

activity for which any person can be charged with a criminal offense, and 18 U.S.C. 2423(a), for transporting a person who has not attained the age of 18 years in interstate or foreign commerce, with the intent that the person engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense.

In response, the amendment provides alternative base offense levels in § 2G1.3 (Promoting a Commercial Sex Act or Prohibited Sexual Conduct with a Minor; Transportation of Minors to Engage in a Commercial Sex Act or Prohibited Sexual Conduct; Travel to Engage in Commercial Sex Act or Prohibited Sexual Conduct with a Minor; Sex Trafficking of Children; Use of Interstate Facilities to Transport Information about a Minor) based on the statute of conviction and the conduct described in that conviction. For convictions under 18 U.S.C. 1591(b)(1), the base offense level is 34. For convictions under 18 U.S.C. 1591(b)(2), the base offense level is 30.

The amendment further provides a base offense level of 28 for convictions under 18 U.S.C. § 2422(b) and 2423(a). The two-level enhancement for the use of a computer at § 2G1.3(b)(3) applied to 95 percent of offenders convicted under 18 U.S.C. 2422(b) and sentenced under § 2G1.3 in fiscal year 2006. In addition, the two-level enhancement for the offense involving a sexual act or sexual contact at § 2G1.3(b)(4) applied to 95 percent of offenders convicted under 18 U.S.C. 2423(a) and sentenced under this guideline in fiscal year 2006. With application of either enhancement, the mandatory minimum term of imprisonment of 120 months will be reached in the majority of convictions under 18 U.S.C. 2422(b) and 2423(a), before application of other guidelines adjustments.

Further, the amendment addresses the interaction of two specific offense characteristics with the alternative base offense levels. First, every conviction under 18 U.S.C. 1591 necessarily involves a commercial sex act. With the base offense levels being determined based on the statute of conviction, the amendment clarifies that § 2G1.3(b)(4)(B), which provides a two-level enhancement if the offense involved a commercial sex act, does not apply if the defendant is convicted under 18 U.S.C. 1591. Second, the amendment precludes application of the age enhancement in § 2G1.3(b)(5) if the base offense level is determined under subsection (a)(1) of § 2G1.3 for a conviction under 18 U.S.C. 1591(b)(1). The base offense level provided by subsection (a)(1) of § 2G1.3 takes into

account the age of the victim and, therefore, limitations on application of subsections (b)(4)(B) and (b)(5) of § 2G1.3 avoid unwarranted double counting.

Eighth, section 503 of the Adam Walsh Act created a new section, 18 U.S.C. 2257A, adopting new recordkeeping obligations for the production of any book, magazine, periodical, film, videotape, or digital image that contains a visual depiction of simulated sexually explicit conduct. Section 2257A has a statutory maximum of one year imprisonment for the failure to comply with the recordkeeping requirements and a statutory maximum term of imprisonment of five years if the violation was to conceal a substantive offense that involves either causing a minor to engage in sexually explicit conduct for the purpose of producing a visual depiction or trafficking in material involving the sexual exploitation of a minor. The new offense is similar to 18 U.S.C. 2257, which is referenced to § 2G2.5 (Recordkeeping Offenses Involving the Production of Sexually Explicit Materials; Failure to Provide Required Marks in Commercial Electronic Mail). Accordingly, the amendment refers the new offense to § 2G2.5.

Ninth, section 701 of the Adam Walsh Act created a new offense in 18 U.S.C. 2252A(g) that prohibits engaging in child exploitation enterprises, defined as violating 18 U.S.C. 1591, 1201 (if the victim is a minor), chapter 109A (involving a minor victim), chapter 110 (except for 18 U.S.C. 2257 and 2257A), or chapter 117 (involving a minor victim), as part of a series of felony violations constituting three or more separate incidents and involving more than one victim, and committing those offenses in concert with three or more other people. The statute provides a mandatory minimum term of imprisonment of 20 years.

The amendment creates a new guideline at § 2G2.6 (Child Exploitation Enterprises) to cover this new offense. The guideline provides a base offense level of 35 and four specific offense characteristics. The Commission anticipates these offenses typically will involve conduct encompassing at least one of the specific offense characteristics, resulting in an offense level of at least level 37. Thus, the mandatory minimum term of imprisonment of 240 months typically is expected to be reached or exceeded, before application of other guideline adjustments.

Tenth, section 206 of the Adam Walsh Act increased the statutory maximum term of imprisonment from 4 years to 10

years under 18 U.S.C. 2252B(b) for knowingly using a misleading domain name with the intent to deceive a minor into viewing material harmful to minors on the Internet. In addition, section 703 of the Act created a new section, 18 U.S.C. 2252C, that carries a statutory maximum term of imprisonment of 10 years for knowingly embedding words or digital images into the source code of a Web site with the intent to deceive a person into viewing material constituting obscenity. Section 2252C(b) carries a statutory maximum term of imprisonment of 20 years for knowingly embedding words or digital images into the source code of a Web site with the intent to deceive a minor into viewing material harmful to minors on the Internet.

In response to the new offense, the amendment expands the scope of subsection (b)(2) of § 2G3.1 (Importing, Mailing, or Transporting Obscene Matter; Transferring Obscene Matter to a Minor; Misleading Domain Names) by adding to this enhancement “embedded words or digital images into the source code on a Web site.”

Eleventh, section 141 of the Adam Walsh Act added a new provision in 18 U.S.C. 1001 that carries a statutory maximum term of imprisonment of 8 years for falsifying or covering up by any scheme or making materially false or fraudulent statements or making or using any false writings or documents that relate to offenses under chapters 109A, 109B, 110, and 117, and under section 1591 of chapter 77. The amendment adds a new specific offense characteristic at subsection (b)(1)(A) of § 2J1.2 (Obstruction of Justice) enhancing the offense level by four levels if the defendant was convicted under 18 U.S.C. 1001 and the statutory maximum term of 8 years’ imprisonment applies because the matter relates to sex offenses. The amendment also added language to Application Note 4 stating an upward departure may be warranted under the guideline in a case involving a particularly serious sex offense.

Twelfth, section 206 of the Adam Walsh Act added 18 U.S.C. 1591 to the list of offenses for which a defendant is to be sentenced to life under 18 U.S.C. 3559(e)(2)(A). The amendment adds 18 U.S.C. 1591 to the list of instant offenses of convictions that are covered sex crimes under § 4B1.5.

Thirteenth, section 141 of the Adam Walsh Act amended 18 U.S.C. 3563 and 3583. The amendment adds a new subdivision to (a)(9) of § 5B1.3 and to (a)(7) of § 5D1.3 to require a defendant to comply with the new registration requirements provided by the Adam

Walsh Act. The amendment also modifies the language in §§ 5B1.3(a)(9) and 5D1.3(a)(7) relating to defendants convicted of a sexual offense described in 18 U.S.C. 4042(c)(4). Not all states have implemented the new requirements, continuing to register sex offenders pursuant to the sex offender registry in place prior to July 27, 2006, the date of enactment of the Adam Walsh Act. Thus, it is necessary to maintain the language in the guidelines providing for conditions of probation and supervised release for those offenders.

Fourteenth, section 141 of the Act amended 18 U.S.C. 3583(k), which provides that the authorized term of supervised release for any offense under enumerated sex offenses is any term of years or life. In response, the amendment adds offenses under chapter 109B and sections 1201 and 1591 of title 18 United States Code or 18 U.S.C. § 1201 and 1591 to the definition of sex offense under § 5D1.2(b)(2) for which the length of the term of supervised release shall be not less than the minimum term of years specified for the offense and may be up to life.

Finally, the amendment provides a definition of “minor” in relevant guidelines that is consistent with how this term is defined elsewhere in the guidelines. Outdated background commentary also is deleted by this amendment.

## 5. Corrections to §§ 2B1.1 and 2L1.1

Amendment: Section 2B1.1(b)(13)(C) is amended by striking “(b)(12)(B)” and inserting “(b)(13)(B)”.

Section 2L1.1(b)(1) is amended by striking “(a)(2)” and inserting “(a)(3)”.

Reason for Amendment: This amendment corrects typographical errors in subsection (b)(13)(C) of § 2B1.1 (Larceny, Embezzlement, and Other Forms of Theft; Offenses Involving Stolen Property; Property Damage or Destruction; Fraud and Deceit; Forgery; Offenses Involving Altered or Counterfeit Instruments Other than Counterfeit Bearer Obligations of the United States) and subsection (b)(1) of § 2L1.1 (Smuggling, Transporting, or Harboring an Unlawful Alien).

The typographical error to § 2B1.1(b)(13)(C) stems from redesignations made to § 2B1.1 in 2004 when the Commission added a new subsection (b)(7) in response to the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 (“CAN-SPAM Act”), Pub. L. 108–187. (USSG App. C Amendment 665) (November 1, 2004).

The typographical error in § 2L1.1(b)(1) stems from redesignations

made to § 2L1.1 in 2006 when the Commission added a new subsection (a)(1) for aliens who are inadmissible for national security related reasons. (USSG App. C Amendment 692) (November 1, 2006).

The Commission has determined that this amendment should be applied retroactively because (A) the purpose of the amendment is to correct typographical errors; (B) the number of cases involved is minimal even given the potential change in guideline ranges (i.e., ensuring application of the maximum increase of 8 levels in § 2B1.1(b)(13)(C) and providing correct application of the three-level reduction in § 2L1.1(b)(1)); and (C) the amendment would not be difficult to apply retroactively. These factors, combined, meet the standards set forth in the relevant background commentary to § 1B1.10 (Reduction in Term of Imprisonment as a Result of Amended Guideline Range).

## 6. Miscellaneous Laws

Amendment: Section 2B2.3(b)(1) is amended by redesignating subdivision (F) as subdivision (G); and by inserting "(F) at Arlington National Cemetery or a cemetery under the control of the National Cemetery Administration;" after "residence;"

The Commentary to § 2B2.3 captioned "Statutory Provisions" is amended by inserting "38 U.S.C. 2413;" after "1036;"

The Commentary to § 2E3.1 captioned "Statutory Provisions" is amended by inserting "; 31 U.S.C. 5363" after "1955".

Appendix A (Statutory Index) is amended by inserting after the line referenced to 31 U.S.C. 5332 the following:

"31 U.S.C. 5363—2E3.1";

and by inserting after the line referenced to 38 U.S.C. 787 the following:

"38 U.S.C. 2413—2B2.3".

Reason for Amendment: This amendment addresses two new offenses, 38 U.S.C. 2413, which was created by the Respect for America's Fallen Heroes Act, Pub. L. 109–228, and 31 U.S.C. 5363, which was created by the Security and Accountability for Every Port Act of 2006, Pub. L. 109–347.

The new offense at 38 U.S.C. 2413 prohibits certain demonstrations at Arlington National Cemetery and at cemeteries controlled by the National Cemetery Administration and provides a statutory maximum penalty of imprisonment of not more than one year, a fine, or both. The amendment references convictions under 38 U.S.C.

2413 to § 2B2.3 (Trespass) and expands the scope of the two-level enhancement at § 2B2.3(b)(1) for trespass offenses that occur in certain locations to include trespass at Arlington National Cemetery or a cemetery under the control of the National Cemetery Administration. The Commission determined that the need to protect the final resting places of the nation's war dead and the need to discourage violent confrontations at the funerals of veterans who are killed in action justifies expanding the scope of the enhancement to cover such conduct.

The new offense at 31 U.S.C. 5363 prohibits acceptance of any financial instrument for unlawful Internet gambling and provides a statutory maximum term of imprisonment of five years. The amendment references convictions under 31 U.S.C. 5363 to § 2E3.1 (Gambling Offenses).

## 7. Repromulgation of Emergency Amendment on Intellectual Property

Amendment: The amendment to § 2B5.3, effective September 12, 2006 (see Appendix C amendment 682), is repromulgated with the following changes:

Section 2B5.3(b)(3) is amended by inserting "(A)" before "offense involved" and by inserting "; or (B) defendant was convicted under 17 U.S.C. 1201 and 1204 for trafficking in circumvention devices" after "items".

The Commentary to § 2B5.3 captioned "Statutory Provisions" is amended by inserting "\$" after "17 U.S.C. "; and by inserting ", 1201, 1204" after "506(a)".

The Commentary to § 2B5.3 captioned "Application Notes" is amended in Note 1 by inserting after "Definitions.—For purposes of this guideline:" the following paragraph:

"'Circumvention devices' are devices used to perform the activity described in 17 U.S.C. § 1201(a)(3)(A) and 1201(b)(2)(A).".

The Commentary to § 2B5.3 captioned "Application Notes" is amended in Note 2(A) by adding at the end the following:

"(vii) A case under 18 U.S.C. 2318 or § 2320 that involves a counterfeit label, patch, sticker, wrapper, badge, emblem, medallion, charm, box, container, can, case, hangtag, documentation, or packaging of any type or nature (I) that has not been affixed to, or does not enclose or accompany a good or service; and (II) which, had it been so used, would appear to a reasonably informed purchaser to be affixed to, enclosing or accompanying an identifiable, genuine good or service. In such a case, the 'infringed item' is the identifiable, genuine good or service.

(viii) A case under 17 U.S.C. § 1201 and 1204 in which the defendant used a circumvention device. In such an offense, the 'retail value of the infringed item' is the price the user would have paid to access lawfully

the copyrighted work, and the 'infringed item' is the accessed work.".

The Commentary to § 2B5.3 captioned "Application Notes" is amended in Note 3 by striking "shall" and inserting "may".

The Commentary to § 2B5.3 captioned "Application Notes" is amended in Note 4 by striking "Upward" before "Departure"; by inserting "or overstates" after "understates"; and by striking "an upward" each place it appears and inserting "a"; and by adding at the end the following:

"(C) The method used to calculate the infringement amount is based upon a formula or extrapolation that results in an estimated amount that may substantially exceed the actual pecuniary harm to the copyright or trademark owner.".

Appendix A (Statutory Index) is amended by inserting after the line referenced to 17 U.S.C. 506(a) the following new lines:

"17 U.S.C. 1201—2B5.3  
17 U.S.C. 1204—2B5.3".

Reason for Amendment: This amendment re-promulgates as permanent the temporary, emergency amendment (effective Sept. 12, 2006) that implemented the emergency directive in section 1(c) of the Stop Counterfeiting in Manufactured Goods Act, Pub. L. 109–181 (2006). The directive, which required the Commission to promulgate an amendment under emergency amendment authority by September 12, 2006, instructs the Commission to "review, and if appropriate, amend the Federal sentencing guidelines and policy statements applicable to persons convicted of any offense under section 2318 or 2320 of title 18, United States Code."

In carrying out [the directive], the United States Sentencing Commission shall determine whether the definition of "infringement amount" set forth in application note 2 of section 2B5.3 of the Federal sentencing guidelines is adequate to address situations in which the defendant has been convicted of one of the offenses [under section 2318 or 2320 of title 18, United States Code,] and the item in which the defendant trafficked was not an infringing item but rather was intended to facilitate infringement, such as an anti-circumvention device, or the item in which the defendant trafficked was infringing and also was intended to facilitate infringement in another good or service, such as a counterfeit label, documentation, or packaging, taking into account cases such as *U.S. v. Sung*, 87 F.3d 194 (7th Cir. 1996).



The amendment adds subdivision (vii) to Application Note 2(A) of § 2B5.3 (Criminal Infringement of Copyright or Trademark) to provide that the infringement amount is based on the retail value of the infringed item in a case under 18 U.S.C. 2318 or 2320 that involves a counterfeit label, patch, sticker, wrapper, badge, emblem, medallion, charm, box, container, can, case, hangtag, documentation, or packaging of any type or nature (i) that has not been affixed to, or does not enclose or accompany a good or service; and (II) which, had it been so used, would appear to a reasonably informed purchaser to be affixed to, enclosing or accompanying an identifiable, genuine good or service. In such a case, the “infringed item” is the identifiable, genuine good or service.

In addition to re-promulgating the emergency amendment, the amendment responds to the directive by addressing violations of 17 U.S.C. 1201 and 1204 involving circumvention devices. The amendment addresses circumvention devices in two ways. First, the amendment adds an application note regarding the determination of the infringement amount in cases under 17 U.S.C. 1201 and 1204 in which the defendant used a circumvention device and thus obtained unauthorized access to a copyrighted work. Such an offense would involve an identifiable copyrighted work. Accordingly, consistent with the existing rules in § 2B5.3, the “retail value of the infringed item” would be used for purposes of determining the infringement amount. The amendment adds subsection (viii) to Application Note 2(A), and explains that the “retail value of the infringed item” is the price the user would have paid to access lawfully the copyrighted work, and the “infringed item” is the accessed work. If the defendant violated 17 U.S.C. 1201 and 1204 by conduct that did not include use of a circumvention device, Application Note 2(B) would apply by default. Thus, as it does in any case not otherwise covered by Application Note 2(A), the infringement amount would be determined by reference to the value of the infringing item, which in these cases would be the circumvention device.

Second, the amendment expands the sentencing enhancement in § 2B5.3(b)(3) to include convictions under 17 U.S.C. 1201 and 1204 for trafficking in circumvention devices. Prior to the amendment, § 2B5.3(b)(3) provided a two-level enhancement and a minimum offense level of 12 for cases involving the manufacture, importation, or uploading of infringing items. The purpose of the enhancement in

§ 2B5.3(b)(3) is to provide greater punishment for defendants who put infringing items into the stream of commerce in a manner that enables others to infringe the copyright or trademark. The Commission determined that trafficking in circumvention devices similarly enables others to infringe a copyright and warrants greater punishment.

The amendment also strikes language in Application Note 3 mandating an adjustment under § 3B1.3 (Abuse of Position of Trust or Use of Special Skill) in every case in which the defendant de-encrypted or otherwise circumvented a technological security measure to gain initial access to an infringed item. Instead, the note indicates that application of the adjustment may be appropriate in such a case because the Commission determined that not every case involving de-encryption or circumvention requires the level of skill contemplated by the special skill adjustment.

Finally, the amendment modifies Application Note 4 to address downward departures. The addition of this language recognizes that in some instances the method for calculating the infringement amount may be based on a formula or extrapolation that overstates the actual pecuniary harm to the copyright or trademark owner. This language is analogous to departure language in § 2B1.1 (Larceny, Embezzlement, and Other Forms of Theft; Offenses Involving Stolen Property; Property Damage or Destruction; Fraud and Deceit; Forgery; Offenses Involving Altered or Counterfeit Instruments Other than Counterfeit Bearer Obligations of the United States) and thus promotes consistency between these two economic crime guidelines.

## 8. Drugs

Amendment: Section 2D1.1(b) is amended by redesignating subdivisions (8) and (9), as subdivisions (10) and (11), respectively; by redesignating subdivisions (5) through (7) as subdivisions (6) through (8), respectively; by inserting after subdivision (4) the following:

“(5) If the defendant is convicted under 21 U.S.C. 865, increase by 2 levels.”;

and by inserting after subdivision (8), as redesignated by this amendment, the following:

“(9) If the defendant was convicted under 21 U.S.C. 841(g)(1)(A), increase by 2 levels.”.

Section 2D1.1(b) is amended in subdivision (10), as redesignated by this amendment, by striking “greater” and

inserting “greatest”; by redesignating subdivision (C) as subdivision (D); and by striking subdivision (B) and inserting the following:

“(B) If the defendant was convicted under 21 U.S.C. 860a of distributing, or possessing with intent to distribute, methamphetamine on premises where a minor is present or resides, increase by 2 levels. If the resulting offense level is less than level 14, increase to level 14.

(C) If—

(i) the defendant was convicted under 21 U.S.C. 860a of manufacturing, or possessing with intent to manufacture, methamphetamine on premises where a minor is present or resides; or

(ii) the offense involved the manufacture of amphetamine or methamphetamine and the offense created a substantial risk of harm to (I) human life other than a life described in subdivision (D); or (II) the environment, increase by 3 levels. If the resulting offense level is less than level 27, increase to level 27.”.

Section 2D1.1(c)(1) is amended by inserting “30,000,000 units or more of Ketamine;” after the line referenced to “Hashish Oil”.

Section 2D1.1(c)(2) is amended by inserting “At least 10,000,000 but less than 30,000,000 units of Ketamine;” after the line referenced to “Hashish Oil”.

Section 2D1.1(c)(3) is amended by inserting “At least 3,000,000 but less than 10,000,000 units of Ketamine;” after the line referenced to “Hashish Oil”.

Section 2D1.1(c)(4) is amended by inserting “At least 1,000,000 but less than 3,000,000 units of Ketamine;” after the line referenced to “Hashish Oil”.

Section 2D1.1(c)(5) is amended by inserting “At least 700,000 but less than 1,000,000 units of Ketamine;” after the line referenced to “Hashish Oil”.

Section 2D1.1(c)(6) is amended by inserting “At least 400,000 but less than 700,000 units of Ketamine;” after the line referenced to “Hashish Oil”.

Section 2D1.1(c)(7) is amended by inserting “At least 100,000 but less than 400,000 units of Ketamine;” after the line referenced to “Hashish Oil”.

Section 2D1.1(c)(8) is amended by inserting “At least 80,000 but less than 100,000 units of Ketamine;” after the line referenced to “Hashish Oil”.

Section 2D1.1(c)(9) is amended by inserting “At least 60,000 but less than 80,000 units of Ketamine;” after the line referenced to “Hashish Oil”.

Section 2D1.1(c)(10) is amended by inserting “At least 40,000 but less than 60,000 units of Ketamine;” after the line referenced to “Hashish Oil”; and by inserting “(except Ketamine)” after “Schedule III substances”.

Section 2D1.1(c)(11) is amended by inserting “At least 20,000 but less than



40,000 units of Ketamine;" after the line referenced to "Hashish Oil"; and by inserting "(except Ketamine)" after "Schedule III substances".

Section 2D1.1(c)(12) is amended by inserting "At least 10,000 but less than 20,000 units of Ketamine;" after the line referenced to "Hashish Oil"; and by inserting "(except Ketamine)" after "Schedule III substances".

Section 2D1.1(c)(13) is amended by inserting "At least 5,000 but less than 10,000 units of Ketamine;" after the line referenced to "Hashish Oil"; and by inserting "(except Ketamine)" after "Schedule III substances".

Section 2D1.1(c)(14) is amended by inserting "At least 2,500 but less than 5,000 units of Ketamine;" after the line referenced to "Hashish Oil"; and by inserting "(except Ketamine)" after "Schedule III substances".

Section 2D1.1(c)(15) is amended by inserting "At least 1,000 units but less than 2,500 units of Ketamine;" after the line referenced to "Hashish Oil"; and by inserting "(except Ketamine)" after "Schedule III substances".

Section 2D1.1(c)(16) is amended by inserting "At least 250 units but less than 1,000 units of Ketamine;" after the line referenced to "Hashish Oil"; and by inserting "(except Ketamine)" after "Schedule III substances".

Section 2D1.1(c)(17) is amended by inserting "Less than 250 units of Ketamine;" after the line referenced to "Hashish Oil"; and by inserting "(except Ketamine)" after "Schedule III substances".

The Commentary to § 2D1.1 captioned "Statutory Provisions" is amended by inserting "(g), 860a, 865," after "(3), (7),".

The Commentary to § 2D1.1 captioned "Application Notes" is amended in Note 10 in the section captioned "Drug Equivalency Tables" in the subdivision captioned "Schedule III Substances" by inserting in the heading "(except ketamine)" after "Substances"; by adding after the subdivision captioned "Schedule III Substances" the following new subdivision:

"Ketamine

1 unit of ketamine = 1 gm of marihuana";

and by adding after the subdivision captioned "List I Chemicals (relating to the manufacture of amphetamine or methamphetamine)" the following new subdivision:

"Date Rape Drugs (except

flunitrazepam, GHB, or ketamine)

1 ml of 1,4-butanediol = 8.8 gm marihuana

1 ml of gamma butyrolactone = 8.8 gm marihuana".

The Commentary to § 2D1.1 captioned "Application Notes" is amended in Note 19 by striking "(b)(8)" each place it appears and inserting "(b)(10)".

The Commentary to § 2D1.1 captioned "Application Notes" is amended in Note 20 in subdivision (A) by striking "(b)(8)(B) or (C)" and inserting "(b)(10)(C)(ii) or (D)"; and in subdivision (B) by striking "(b)(8)(C)" and inserting "(b)(10)(D)".

The Commentary to § 2D1.1 captioned "Application Notes" is amended in Note 21 by striking "(9)" each place it appears and inserting "(11)".

The Commentary to § 2D1.1 captioned "Application Notes" is amended by redesignating Notes 22 through 25 as Notes 23 through 26, respectively; and by inserting after Note 21 the following:

"22. Imposition of Consecutive Sentence for 21 U.S.C. 860a or 865.—Sections 860a and 865 of title 21, United States Code, require the imposition of a mandatory consecutive term of imprisonment of not more than 20 years and 15 years, respectively. In order to comply with the relevant statute, the court should determine the appropriate 'total punishment' and divide the sentence on the judgment form between the sentence attributable to the underlying drug offense and the sentence attributable to 21 U.S.C. 860a or 865, specifying the number of months to be served consecutively for the conviction under 21 U.S.C. 860a or 865. For example, if the applicable adjusted guideline range is 151–188 months and the court determines a 'total punishment' of 151 months is appropriate, a sentence of 130 months for the underlying offense plus 21 months for the conduct covered by 21 U.S.C. 860a or 865 would achieve the 'total punishment' in a manner that satisfies the statutory requirement of a consecutive sentence."

The Commentary to § 2D1.1 captioned "Application Notes" is amended in Note 23, as redesignated by this amendment, by striking "(5)" each place it appears and inserting "(6)".

The Commentary to § 2D1.1 captioned "Application Notes" is amended in Note 25, as redesignated by this amendment, by striking "(6)" each place it appears and inserting "(7)".

The Commentary to § 2D1.1 captioned "Application Notes" is amended in Note 26, as redesignated by this amendment, by striking "(7)" each place it appears and inserting "(8)".

The Commentary to § 2D1.1 captioned "Background" is amended in the ninth paragraph by striking "(b)(8)" and inserting "(b)(10)"; and in the last paragraph by striking "(b)(8)(B) and (C)" and inserting "(b)(10)(C)(ii) and (D)".

Section 2D1.1(b) is amended by adding at the end the following subdivision:

"(5) If the defendant is convicted under 21 U.S.C. 865, increase by 2 levels."

The Commentary to § 2D1.11 captioned "Statutory Provisions" is amended by inserting "865," after "(f)(1),".

The Commentary to § 2D1.11 captioned "Application Notes" is amended by adding at the end the following:

"8. Imposition of Consecutive Sentence for 21 U.S.C. 865.—Section 865 of title 21, United States Code, requires the imposition of a mandatory consecutive term of imprisonment of not more than 15 years. In order to comply with the relevant statute, the court should determine the appropriate 'total punishment' and, on the judgment form, divide the sentence between the sentence attributable to the underlying drug offense and the sentence attributable to 21 U.S.C. 865, specifying the number of months to be served consecutively for the conviction under 21 U.S.C. 865. For example, if the applicable adjusted guideline range is 151–188 months and the court determines a 'total punishment' of 151 months is appropriate, a sentence of 130 months for the underlying offense plus 21 months for the conduct covered by 21 U.S.C. 865 would achieve the 'total punishment' in a manner that satisfies the statutory requirement of a consecutive sentence."

Appendix A (Statutory Index) is amended by inserting after the line referenced to 21 U.S.C. 841(f)(1) the following:

"21 U.S.C. 841(g)—2D1.1";

by inserting after the line referenced to 21 U.S.C. 860 the following:

"21 U.S.C. 860a—2D1.1";

and by inserting after the line referenced to 21 U.S.C. 864 the following:

"21 U.S.C. 865—2D1.1, 2D1.11".

Reason for Amendment: This amendment responds to the new offenses created by the USA PATRIOT Improvement and Reauthorization Act of 2005 (the "PATRIOT Reauthorization Act"), Pub. L. 109–177, and the Adam Walsh Child Protection and Safety Act of 2006 (the "Adam Walsh Act"), Pub. L. 109–248.

First, the amendment addresses section 731 of the PATRIOT Reauthorization Act, which created a new offense at 21 U.S.C. 865. The new offense provides a mandatory consecutive sentence of 15 years' imprisonment for smuggling of methamphetamine or its precursor chemicals into the United States by a person enrolled in, or acting on behalf of someone or some entity enrolled in, any dedicated commuter lane, alternative or accelerated inspection system, or other facilitated entry program administered by the federal government for use in entering the United States. The amendment refers

the new offense to both §§ 2D1.1 (Unlawful Manufacturing, Importing, Exporting, or Trafficking (Including Possession with Intent to Commit These Offenses); Attempt or Conspiracy) and 2D1.11 (Unlawfully Distributing, Importing, Exporting or Possessing a Listed Chemical; Attempt or Conspiracy), and provides a new two-level enhancement in §§ 2D1.1(b)(5) and 2D1.11(b)(5) if the defendant is convicted under 21 U.S.C. 865. The Commission determined that a two-level enhancement is appropriate because such conduct is analogous to abusing a position of trust, which receives a two-level adjustment under § 3B1.3 (Abuse of Position of Trust or Use of Special Skill).

Second, the amendment modifies § 2D1.1 to address the new offense in 21 U.S.C. 841(g) (Internet Sales of Date Rape Drugs) created by the Adam Walsh Act. This offense, which is punishable up to statutory maximum term of imprisonment of 20 years, prohibits the use of the Internet to distribute a date rape drug to any person, “knowing or with reasonable cause to believe that— (A) The drug would be used in the commission of criminal sexual conduct; or (B) the person is not an authorized purchaser.” The statute defines “date rape drug” as “(i) gamma hydroxybutyric acid (GHB) or any controlled substance analogue of GHB, including gamma butyrolactone (GBL) or 1,4-butanediol; (ii) ketamine; (iii) flunitrazepam; or (iv) any substance which the Attorney General designates \* \* \* to be used in committing rape or sexual assault.” The amendment provides a new two-level enhancement in § 2D1.1(b)(9) that is tailored to focus on the more serious conduct covered by the new statute, specifically conviction under 21 U.S.C. 841(g)(A), which covers individuals who know or have reasonable cause to believe the drug would be used in the commission of criminal sexual conduct.

Third, the amendment eliminates the maximum base offense level of level 20 for ketamine offenses. Ketamine is a Schedule III controlled substance. The Drug Quantity Table at § 2D1.1(c) provides a maximum offense level of 20 for most Schedule III substances because such substances are subject to a statutory maximum term of imprisonment of 5 years. If a defendant is convicted under 21 U.S.C. 841(g) for distributing ketamine, however, the defendant is subject to a statutory maximum term of imprisonment of 20 years. Accordingly, the amendment modifies the Drug Quantity Table in order to allow for appropriate sentencing of 21 U.S.C. 841(g) offenses

involving larger quantities of ketamine that correspond to offense levels greater than level 20. This approach is consistent with how other drug offenses with a statutory maximum term of imprisonment of 20 years are penalized and with how other date rape drugs are penalized. The amendment also provides a marijuana equivalency in Application Note 10 for ketamine (1 unit of ketamine = 1 gram of marijuana).

Fourth, the amendment adds to § 2D1.1, Application Note 10, a new drug equivalency for 1,4-butanediol (BD) and gamma butyrolactone (GBL), both of which are included in the definition of date rape drugs under 21 U.S.C. 841(g). Neither is a controlled substance. The drug equivalency is 1 ml of BD or GBL equals 8.8 grams of marijuana. The Commission has received testimony that both substances are at least equipotent as GHB, which is punished at the same marijuana equivalency.

Fifth, the amendment addresses the new offense in 21 U.S.C. 860a (Consecutive sentence for manufacturing or distributing, or possessing with intent to manufacture or distribute, methamphetamine on premises where children are present or reside), created by the PATRIOT Reauthorization Act. The new offense provides that a term of not more than 20 years’ imprisonment is to be imposed, in addition to any other sentence imposed, for manufacturing, distributing, or possessing with the intent to manufacture or distribute, methamphetamine on a premises where a minor is present or resides. The amendment modifies § 2D1.1(b)(8)(C) to provide a two-level increase (with a minimum offense level of 14) if the defendant is convicted under 21 U.S.C. 860a involving the distribution or possession with intent to distribute methamphetamine and a three-level increase (with a minimum offense level of 27) if the defendant is convicted under 21 U.S.C. 860a involving the manufacture or possession with intent to manufacture methamphetamine.

To account for the spectrum of harms created by methamphetamine offenses, and to address the specific harms created by 21 U.S.C. 860a, the amendment builds on the “substantial risk enhancement.” This multi-tiered enhancement was added to § 2D1.1 in 2000 in response to the Methamphetamine Anti-Proliferation Act of 2000, Pub. L. 106–310, Title XXXVI. See USSG App. C (Amendments 608 and 620 (effective Dec. 12, 2000, and Nov. 1, 2001, respectively)). Prior to this amendment, the first tier provided

a two-level increase for basic environmental harms, such as discharging hazardous substances into the environment. The second tier provided a three-level increase, and a minimum offense level of 27, for the substantial risk of harm to the life of someone other than a minor or an incompetent. The final tier provided a six-level increase and a minimum offense level of 30 for the substantial risk of harm to the life of a minor or incompetent or the environment.

The Commission determined that distributing, or possessing with the intent to distribute, methamphetamine on a premises where a minor is present or resides presents a greater harm than discharging a hazardous substance into the environment, but is a lesser harm than the substantial risk of harm to adults or to the environment created by the manufacture of methamphetamine. Therefore, the amendment adds a new tier to the enhancement in the new subdivision (b)(10)(B) in order to account for this conduct. A defendant convicted under 21 U.S.C. 860a for distributing, or possessing with the intent to distribute, methamphetamine on a premises where a minor is present or resides will receive a two-level enhancement, with a minimum offense level of 14.

To address the overlap of conduct covered by the enhancement for the substantial risk of harm to the life of a minor and the new offense of manufacturing, or possessing with the intent to manufacture, methamphetamine on a premises where a minor is present or resides, a three-level enhancement and a minimum offense level of level 27 will apply in a case in which a minor is present, but in which the offense did not create a substantial risk of harm to the life of a minor. In any methamphetamine manufacturing offense which creates a substantial risk of harm to the life of a minor, a six-level enhancement and a minimum offense level of level 30 will apply.

Sixth, the amendment updates Appendix A (Statutory Index) to include references to the new offenses created by the PATRIOT Reauthorization and Adam Walsh Acts.

## 9. Cocaine Base Sentencing

Amendment: Section 2D1.1(c)(1) is amended by striking “1.5 KG or more of Cocaine Base” and inserting “4.5 KG or more of Cocaine Base”.

Section 2D1.1(c)(2) is amended by striking “At least 500 G but less than 1.5 KG of Cocaine Base” and inserting “At least 1.5 KG but less than 4.5 KG of Cocaine Base”.

Section 2D1.1(c)(3) is amended by striking “At least 150 G but less than 500 G of Cocaine Base” and inserting “At least 500 G but less than 1.5 KG of Cocaine Base”.

Section 2D1.1(c)(4) is amended by striking “At least 50 G but less than 150 G of Cocaine Base” and inserting “At least 150 G but less than 500 G of Cocaine Base”.

Section 2D1.1(c)(5) is amended by striking “At least 35 G but less than 50 G of Cocaine Base” and inserting “At least 50 G but less than 150 G of Cocaine Base”.

Section 2D1.1(c)(6) is amended by striking “At least 20 G but less than 35 G of Cocaine Base” and inserting “At least 35 G but less than 50 G of Cocaine Base”.

Section 2D1.1(c)(7) is amended by striking “At least 5 G but less than 20 G of Cocaine Base” and inserting “At least 20 G but less than 35 G of Cocaine Base”.

Section 2D1.1(c)(8) is amended by striking “At least 4 G but less than 5 G of Cocaine Base” and inserting “At least 5 G but less than 20 G of Cocaine Base”.

Section 2D1.1(c)(9) is amended by striking “At least 3 G but less than 4 G of Cocaine Base” and inserting “At least 4 G but less than 5 G of Cocaine Base”.

Section 2D1.1(c)(10) is amended by striking “At least 2 G but less than 3 G of Cocaine Base” and inserting “At least 3 G but less than 4 G of Cocaine Base”.

Section 2D1.1(c)(11) is amended by striking “At least 1 G but less than 2 G of Cocaine Base” and inserting “At least 2 G but less than 3 G of Cocaine Base”.

Section 2D1.1(c)(12) is amended by striking “At least 500 MG but less than 1 G of Cocaine Base” and inserting “At least 1 G but less than 2 G of Cocaine Base”.

Section 2D1.1(c)(13) is amended by striking “At least 250 MG but less than 500 MG of Cocaine Base” and inserting “At least 500 MG but less than 1 G of Cocaine Base”.

Section 2D1.1(c)(14) is amended by striking “Less than 250 MG of Cocaine Base” and inserting “Less than 500 MG of Cocaine Base”.

The Commentary to § 2D1.1 captioned “Application Notes” is amended in Note 10 in the first paragraph by inserting before “The Commission has used the sentences” the following:

“Use of Drug Equivalency Tables.—

(A) Controlled Substances Not Referenced in Drug Quantity Table.—”;

by striking “(A)” before “Use” and inserting “(i)”; by striking “(B)” before “Find” and inserting “(ii)”; and by striking “(C)” before “Use” and inserting “(iii)”;

in the second paragraph by striking “The Drug Equivalency Tables also provide” and inserting the following:

“(B) Combining Differing Controlled Substances (Except Cocaine Base).—The Drug Equivalency Tables also provide”; and by adding at the end the following:

“To determine a single offense level in a case involving cocaine base and other controlled substances, *see* subdivision (D) of this note.”.

The Commentary to § 2D1.1 captioned “Application Notes” is amended in Note 10 in the subdivision captioned “Examples:” by striking “Examples:” and inserting the following:

“(C) Examples for Combining Differing Controlled Substances (Except Cocaine Base).—”;

and by redesignating examples “a.” through “d.” as examples (i) through (iv), respectively.

The Commentary to § 2D1.1 captioned “Application Notes” is amended in Note 10 by inserting after example (iv), as redesignated by this amendment, the following:

“(D) Determining Base Offense Level in Offenses Involving Cocaine Base and Other Controlled Substances.—

(i) In General.—If the offense involves cocaine base (‘crack’) and one or more other controlled substance, determine the base offense level as follows:

(I) Determine the combined base offense level for the other controlled substance or controlled substances as provided in subdivision (B) of this note.

(II) Use the combined base offense level determined under subdivision (B) of this note to obtain the appropriate marihuana equivalency for the cocaine base involved in the offense using the following table:

Base offense level	Marihuana equivalency
38 .....	6.7 kg of marihuana
36 .....	6.7 kg of marihuana
34 .....	6 kg of marihuana.
32 .....	6.7 kg of marihuana.
30 .....	14 kg of marihuana.
28 .....	11.4 kg of marihuana.
26 .....	5 kg of marihuana.
24 .....	16 kg of marihuana.
22 .....	15 kg of marihuana.
20 .....	13.3 kg of marihuana.
18 .....	10 kg of marihuana.
16 .....	10 kg of marihuana.
14 .....	10 kg of marihuana.
12 .....	10 kg of marihuana.

(III) Using the marihuana equivalency obtained from the table in subdivision (II), convert the quantity of cocaine base involved in the offense to its equivalent quantity of marihuana.

(IV) Add the quantity of marihuana determined under subdivisions (I) and (III), and look up the total in the Drug Quantity Table to obtain the combined base offense

level for all the controlled substances involved in the offense.

(ii) Example.—The case involves 1.5 kg of cocaine, 10 kg of marihuana, and 20 g of cocaine base. Pursuant to subdivision (B), the equivalent quantity of marihuana for the cocaine and the marihuana is 310 kg. (The cocaine converts to an equivalent of 300 kg of marihuana (1.5 kg × 200 g = 300 kg), which when added to the quantity of marihuana involved in the offense, results in an equivalent quantity of 310 kg of marihuana.) This corresponds to a base offense level 26. Pursuant to the table in subdivision (II), the base offense level of 26 results in a marihuana equivalency of 5 kg for the cocaine base. Using this marihuana equivalency for the cocaine base results in a marihuana equivalency of 100 kg (20 g × 5 kg = 100 kg). Adding the quantities of marihuana of all three controlled substances results in a combined quantity of 410 kg of marihuana, which corresponds to a combined base offense level of 28 in the Drug Quantity Table.”.

The Commentary to § 2D1.1 captioned “Application Notes” is amended in Note 10 by striking “DRUG EQUIVALENCY TABLES” and inserting the following:

“(E) Drug Equivalency Tables.—”; and in the subdivision captioned “Cocaine and Other Schedule I and II Stimulants (and their immediate precursors)” by striking “1 gm of Cocaine Base (‘Crack’) = 20 kg of marihuana”.

Reason for Amendment: The Commission identified as a policy priority for the amendment cycle ending May 1, 2007, “continuation of its work with the congressional, executive, and judicial branches of the government and other interested parties on cocaine sentencing policy,” including reevaluating the Commission’s 2002 report to Congress, Cocaine and Federal Sentencing Policy. As a result of the Anti-Drug Abuse Act of 1986, Pub. L. 99–570, 21 U.S.C. 841(b)(1) requires a five-year mandatory minimum penalty for a first-time trafficking offense involving 5 grams or more of crack cocaine, or 500 grams of powder cocaine, and a ten-year mandatory minimum penalty for a first-time trafficking offense involving 50 grams or more of crack cocaine, or 5,000 grams or more of powder cocaine. Because 100 times more powder cocaine than crack cocaine is required to trigger the same mandatory minimum penalty, this penalty structure is commonly referred to as the “100-to-1 drug quantity ratio.”

To assist the Commission in its consideration of Federal cocaine sentencing policy, the Commission received statements and heard expert testimony from the Executive Branch, the Federal judiciary, defense

practitioners, state and local law enforcement representatives, medical and treatment experts, academicians, social scientists, and interested community representatives at hearings on November 14, 2006, and March 20, 2007. The Commission also received substantial written public comment on Federal cocaine sentencing policy throughout the amendment cycle.

During the amendment cycle, the Commission updated its analysis of key sentencing data about cocaine offenses and offenders; reviewed recent scientific literature regarding cocaine use, effects, dependency, prenatal effects, and prevalence; researched trends in cocaine trafficking patterns, price, and use; surveyed the state laws regarding cocaine penalties; and monitored case law developments.

Current data and information continue to support the Commission's consistently held position that the 100-to-1 drug quantity ratio significantly undermines various congressional objectives set forth in the Sentencing Reform Act and elsewhere. These findings will be more thoroughly explained in a forthcoming report that will present to Congress, on or before May 15, 2007, a number of recommendations for modifications to the statutory penalties for crack cocaine offenses. It is the Commission's firm desire that this report will facilitate prompt congressional action addressing the 100-to-1 drug quantity ratio.

The Commission's recommendation and strong desire for prompt legislative action notwithstanding, the problems associated with the 100-to-1 drug quantity ratio are so urgent and compelling that this amendment is promulgated as an interim measure to alleviate some of those problems. The Commission has concluded that the manner in which the Drug Quantity Table in § 2D1.1 (Unlawful Manufacturing, Importing, Exporting, or Trafficking (Including Possession with Intent to Commit These Offenses); Attempt or Conspiracy) was constructed to incorporate the statutory mandatory minimum penalties for crack cocaine offenses is an area in which the Federal sentencing guidelines contribute to the problems associated with the 100-to-1 drug quantity ratio.

When Congress passed the 1986 Act, the Commission responded by generally incorporating the statutory mandatory minimum sentences into the guidelines and extrapolating upward and downward to set guideline sentencing ranges for all drug quantities. The drug quantity thresholds in the Drug Quantity Table are set so as to provide base offense levels corresponding to

guideline ranges that are above the statutory mandatory minimum penalties. Accordingly, offenses involving 5 grams or more of crack cocaine were assigned a base offense level (level 26) corresponding to a sentencing guideline range of 63 to 78 months for a defendant in Criminal History Category I (a guideline range that exceeds the five-year statutory minimum for such offenses by at least three months). Similarly, offenses involving 50 grams or more of crack cocaine were assigned a base offense level (level 32) corresponding to a sentencing guideline range of 121 to 151 months for a defendant in Criminal History Category I (a guideline range that exceeds the ten-year statutory minimum for such offenses by at least one month). Crack cocaine offenses for quantities above and below the mandatory minimum threshold quantities were set accordingly using the 100-to-1 drug quantity ratio.

This amendment modifies the drug quantity thresholds in the Drug Quantity Table so as to assign, for crack cocaine offenses, base offense levels corresponding to guideline ranges that include the statutory mandatory minimum penalties. Accordingly, pursuant to the amendment, 5 grams of cocaine base are assigned a base offense level of 24 (51 to 63 months at Criminal History Category I, which includes the five-year (60 month) statutory minimum for such offenses), and 50 grams of cocaine base are assigned a base offense level of 30 (97 to 121 months at Criminal History Category I, which includes the ten-year (120 month) statutory minimum for such offenses). Crack cocaine offenses for quantities above and below the mandatory minimum threshold quantities similarly are adjusted downward by two levels. The amendment also includes a mechanism to determine a combined base offense level in an offense involving crack cocaine and other controlled substances.

The Commission's prison impact model predicts that, assuming no change in the existing statutory mandatory minimum penalties, this modification to the Drug Quantity Table will affect 69.7 percent of crack cocaine offenses sentenced under § 2D1.1 and will result in a reduction in the estimated average sentence of all crack cocaine offenses from 121 months to 106 months, based on an analysis of cases sentenced in fiscal year 2006 under § 2D1.1 involving crack cocaine.

Having concluded once again that the 100-to-1 drug quantity ratio should be modified, the Commission recognizes that establishing federal cocaine

sentencing policy ultimately is Congress's prerogative. Accordingly, the Commission tailored the amendment to fit within the existing statutory penalty scheme by assigning base offense levels that provide guideline ranges that include the statutory mandatory minimum penalties for crack cocaine offenses. The Commission, however, views the amendment only as an interim solution to some of the problems associated with the 100-to-1 drug quantity ratio. It is neither a permanent nor a complete solution to those problems. Any comprehensive solution to the 100-to-1 drug quantity ratio requires appropriate legislative action by Congress.

#### 10. Technical Amendments

Amendment: Section 2D1.11(a) is amended by striking "(e)" after "under subsection" and inserting "(d)".

The Commentary to § 2K2.1 captioned "Application Notes" is amended in Note 14 in subdivision (B) by striking "(b)(1)" and inserting "(b)(6)".

Appendix A (Statutory Index) is amended by inserting after the line referenced to 18 U.S.C. 930 the following:

"18 U.S.C. 931—2K2.6":

and by striking the following:

"18 U.S.C. 3147—2J1.7".

Chapter Three, Part D is amended in the Introductory Commentary in the first paragraph by inserting after the first sentence the following:

"These rules apply to multiple counts of conviction (A) contained in the same indictment or information; or (B) contained in different indictments or informations for which sentences are to be imposed at the same time or in a consolidated proceeding."

The Commentary to § 3D1.1 captioned "Application Note" is amended by striking "Note" and inserting "Notes"; by redesignating Note 1 as Note 2; and by inserting the following as new Note 1:

"1. In General—For purposes of sentencing multiple counts of conviction, counts can be (A) contained in the same indictment or information; or (B) contained in different indictments or informations for which sentences are to be imposed at the same time or in a consolidated proceeding."

Reason for Amendment: This amendment makes various technical and conforming changes to the guidelines.

First, the amendment corrects typographical errors in subsection (a) of § 2D1.11 (Unlawfully Distributing, Importing, Exporting or Possessing a Listed Chemical; Attempt or Conspiracy) and Application Note 14 of

§ 2K2.1 (Unlawful Receipt, Possession, or Transportation of Firearms or Ammunition; Prohibited Transactions Involving Firearms or Ammunition).

Second, the amendment addresses application of the grouping rules when a defendant is sentenced on multiple counts contained in different indictments as, for example, when a case is transferred to another district for purposes of sentencing, pursuant to Fed. R. Crim. P. 20(a).

The amendment adopts the reasoning of recent case law and clarifies that the grouping rules apply not only to multiple counts in the same indictment, but also to multiple counts contained in different indictments when a defendant is sentenced on the indictments simultaneously. The amendment provides clarifying language in the Introductory Commentary of Chapter Three, Part D, as well as in § 3D1.1 (Procedure for Determining Offense Level on Multiple Counts). The language is the same as that provided in \*5G1.2 (Sentencing on Multiple Counts of Conviction).

#### 11. Repromulgation of Emergency Amendment on Pretexting

Amendment: The amendments to § 2H3.1 and Appendix A, effective May 1, 2007 (*see* 72 FR 20576 (April 25, 2007)), are repromulgated with the following changes:

Section 2H3.1 is amended in the heading by striking “Tax Return Information” and inserting “Certain Private or Protected Information”.

Section 2H3.1(a) is amended by striking subdivision (2) and inserting the following:

“(2) 6, if the offense of conviction has a statutory maximum term of imprisonment of one year or less but more than six months.”.

Section 2H3.1(b)(1) is amended by inserting “(A) the defendant is convicted under 18 U.S.C. 1039(d) or (e); or (B)” after “If”.

The Commentary to § 2H3.1 captioned “Statutory Provisions” is amended by inserting “8 U.S.C. 1375a(d)(3)(C), (d)(5)(B);” before “18 U.S.C.”; by inserting “§ 1039, 1905,” after “18 U.S.C.”; and by inserting “42 U.S.C. 16962, 16984” after “7216;”.

The Commentary to § 2H3.1 captioned “Application Notes” is amended by striking Note 1; by redesignating Note 2 as Note 1; and by adding at the end the following:

“2. Imposition of Sentence for 18 U.S.C. 1039(d) and (e).—Subsections 1039(d) and (e) of title 18, United States Code, require a term of imprisonment of not more than 5 years to be imposed in addition to any sentence imposed for a conviction under 18 U.S.C.

1039(a), (b), or (c). In order to comply with the statute, the court should determine the appropriate ‘total punishment’ and divide the sentence on the judgment form between the sentence attributable to the conviction under 18 U.S.C. 1039(d) or (e) and the sentence attributable to the conviction under 18 U.S.C. 1039(a), (b), or (c), specifying the number of months to be served for the conviction under 18 U.S.C. 1039(d) or (e). For example, if the applicable adjusted guideline range is 15–21 months and the court determines a ‘total punishment’ of 21 months is appropriate, a sentence of 9 months for conduct under 18 U.S.C. 1039(a) plus 12 months for 18 U.S.C. 1039(d) conduct would achieve the ‘total punishment’ in a manner that satisfies the statutory requirement.

3. Upward Departure.—There may be cases in which the offense level determined under this guideline substantially understates the seriousness of the offense. In such a case, an upward departure may be warranted. The following are examples of cases in which an upward departure may be warranted:

(i) The offense involved confidential phone records information or tax return information of a substantial number of individuals.

(ii) The offense caused or risked substantial non-monetary harm (e.g. physical harm, psychological harm, or severe emotional trauma, or resulted in a substantial invasion of privacy interest) to individuals whose private or protected information was obtained.”.

The Commentary to § 2H3.1 is amended by striking “Background” through the end of “and 7216.”.

Appendix A (Statutory Index) is amended by inserting after the line referenced to 8 U.S.C. 1328 the following:

“8 U.S.C. 1375a(d)(3)(C), (d)(5)(B)2H3.1”;

by inserting after the line referenced to 18 U.S.C. 1038 the following:

“18 U.S.C. 1039—2H3.1”

and by inserting after the line referenced to 42 U.S.C. 14905 the following:

“42 U.S.C. 16962—2H3.1  
42 U.S.C. 16984—2H3.1”.

Reason for Amendment: This amendment addresses several offenses that pertain to unauthorized access or disclosure of private or protected information. Specifically, this amendment pertains to (A) the repromulgation of the emergency amendment that implemented the directive in section 4 of the Telephone Records and Privacy Protection Act of 2006, Pub. L. 109–476 (the “Telephone Records Act”); (B) offenses involving improper use of a child’s fingerprints under 42 U.S.C. 16984 and 16962; and (C) various other offenses related to private or protected information.

This amendment re-promulgates as permanent the temporary emergency amendment (effective May 1, 2007) that implemented the directive in section 4

of the Telephone Records Act. The amendment refers the new offense at 18 U.S.C. 1039 to § 2H3.1 (Interception of Communications; Eavesdropping; Disclosure of Tax Information). The Commission concluded that disclosure of telephone records is similar to the types of privacy offenses referenced to this guideline. In addition, this guideline includes a cross reference, instructing that if the purpose of the 18 U.S.C. 1039 offense was to facilitate another offense, the guideline applicable to an attempt to commit the other offense should be applied, if the resulting offense level is higher. The Commission concluded that operation of the cross reference would capture the harms associated with the aggravated forms of this offense referenced at 18 U.S.C. 1039(d) or (e). The amendment also expands the scope of the existing three-level enhancement in the guideline to include cases in which the defendant is convicted under 18 U.S.C. 1039(d) or (e). Thus, in a case in which the cross reference does not apply, application of the enhancement will capture the increased harms associated with the aggravated offenses. Finally, the amendment expands the upward departure note to include tax return information of a substantial number of individuals.

Section 153 of the Adam Walsh Child Protection and Safety Act of 2006, Pub. L. 109–248 (the “Adam Walsh Act”), added a new offense at 42 U.S.C. 16962, which provides a statutory maximum term of imprisonment of 10 years for the improper release of information obtained in fingerprint-based checks for the background check of either foster or adoptive parents or of individuals employed by, or considering employment with, a private or public educational agency. Additionally, section 627 of the Adam Walsh Act added a new Class A Misdemeanor offense at 42 U.S.C. 16984 prohibiting the use of a child’s fingerprints for any purpose other than providing those fingerprints to the child’s parent or legal guardian. This amendment references both offenses to § 2H3.1, providing a base offense level of 9 under § 2H3.1(a)(1) if the defendant was convicted of violating 42 U.S.C. 16962, and a base offense level of 6 if the defendant was convicted of violating 42 U.S.C. 16984.

Finally, this amendment implements the Violence Against Women and Department of Justice Reauthorization Act of 2005, Pub. L. 109–162 (“VAWA”). VAWA included the International Marriage Broker Regulation Act of 2005 (“IMBRA”), which requires marriage brokers to keep

private information gathered in the course of their business confidential. New offenses at 8 U.S.C.

§ 1375a(d)(3)(C) and 1375a(d)(5)(B) involve invasions of protected privacy interests and, as such, are referenced to § 2H3.1.

The Commission concluded that referencing these new offenses to § 2H3.1 was appropriate because each of the new offenses is similar to the types of privacy offenses referenced to this guideline.

## 12. Criminal History

Amendment: Section 4A1.1(f) is amended by striking “was considered related to another sentence resulting from a conviction of a crime of violence” and inserting “was counted as a single sentence”; and by striking the last sentence.

The Commentary to § 4A1.1 captioned “Application Notes” is amended in Note 6 by striking the first paragraph and inserting the following:

“§ 4A1.1(f). In a case in which the defendant received two or more prior sentences as a result of convictions for crimes of violence that are counted as a single sentence (see § 4A1.2(a)(2)), one point is added under § 4A1.1(f) for each such sentence that did not result in any additional points under § 4A1.1(a), (b), or (c). A total of up to 3 points may be added under § 4A1.1(f). For purposes of this guideline, ‘crime of violence’ has the meaning given that term in § 4B1.2(a). See § 4A1.2(p).”;

and in the second paragraph by striking “that were consolidated for sentencing and therefore are treated as related.” and inserting “. The sentences for these offenses were imposed on the same day and are counted as a single prior sentence. See § 4A1.2(a)(2).”.

Section 4A1.2(a) is amended in the heading by striking “Defined”; and by striking subdivision (2) and inserting the following:

“(2) If the defendant has multiple prior sentences, determine whether those sentences are counted separately or as a single sentence. Prior sentences always are counted separately if the sentences were imposed for offenses that were separated by an intervening arrest (i.e., the defendant is arrested for the first offense prior to committing the second offense). If there is no intervening arrest, prior sentences are counted separately unless (A) the sentences resulted from offenses contained in the same charging instrument; or (B) the sentences were imposed on the same day. Count any prior sentence covered by (A) or (B) as a single sentence. See also § 4A1.1(f).

For purposes of applying § 4A1.1(a), (b), and (c), if prior sentences are counted as a single sentence, use the longest sentence of imprisonment if concurrent sentences were imposed. If consecutive sentences were

imposed, use the aggregate sentence of imprisonment.”.

Section 4A1.2(c)(1) is amended by striking “at least one” and inserting “more than one”; by striking “Fish and game violations”; and by striking “Local ordinance violations (excluding local ordinance violations that are also criminal offenses under state law)”.

Section 4A1.2(c)(2) is amended by inserting “Fish and game violations” as a new line before the line referenced to “Hitchhiking”; and by inserting “Local ordinance violations (except those violations that are also violations under state criminal law)” as a new line before the line referenced to “Loitering”.

The Commentary to § 4A1.2 captioned “Application Notes” is amended by striking Note 3 and inserting the following:

“3. Upward Departure Provision.— Counting multiple prior sentences as a single sentence may result in a criminal history score that underrepresents the seriousness of the defendant’s criminal history and the danger that the defendant presents to the public. In such a case, an upward departure may be warranted. For example, if a defendant was convicted of a number of serious non-violent offenses committed on different occasions, and the resulting sentences were counted as a single sentence because either the sentences resulted from offenses contained in the same charging instrument or the defendant was sentenced for these offenses on the same day, the assignment of a single set of points may not adequately reflect the seriousness of the defendant’s criminal history or the frequency with which the defendant has committed crimes.”.

The Commentary to § 4A1.2 captioned “Application Notes” is amended in Note 12 by striking “Local Ordinance Violations.” and inserting the following:

“Application of Subsection (c).—

(A) In General.—In determining whether an unlisted offense is similar to an offense listed in subdivision (c)(1) or (c)(2), the court should use a common sense approach that includes consideration of relevant factors such as (i) a comparison of punishments imposed for the listed and unlisted offenses; (ii) the perceived seriousness of the offense as indicated by the level of punishment; (iii) the elements of the offense; (iv) the level of culpability involved; and (v) the degree to which the commission of the offense indicates a likelihood of recurring criminal conduct.

(B) Local Ordinance Violations.—”;

by striking “§ 4A1.2(c)(1)” after “violations in” and inserting “§ 4A1.2(c)(2)”; and by inserting at the end the following:

“(C) Insufficient Funds Check.— ‘Insufficient funds check,’ as used in § 4A1.2(c)(1), does not include any conviction establishing that the defendant used a false name or non-existent account.”.

The Commentary to § 4A1.2 captioned “Application Notes” is amended by striking Note 13.

The Commentary to § 4B1.2 captioned “Application Notes” is amended in Note 1 in the paragraph that begins “A violation of 18 U.S.C. 924(c)” by inserting “sentences for the” before “two prior”; and by striking “treated as related cases” and inserting “counted as a single sentence”.

The Commentary to § 2L1.2 captioned “Application Notes” is amended in Note 4(B) by striking “considered ‘related cases’, as that term is defined in Application Note 3” and inserting “counted as a single sentence pursuant to subsection (a)(2)”.

Reason for Amendment: This amendment addresses two areas of the Chapter Four criminal history rules: The counting of multiple prior sentences and the use of misdemeanor and petty offenses in determining a defendant’s criminal history score. In November 2006 the Commission hosted round-table discussions to receive input on criminal history issues from federal judges, prosecutors, defense attorneys, probation officers, and members of academia. In addition, the Commission gathered information through its training programs, the public comment process, and comments received during a public hearing of the Commission in March 2007. This amendment addresses two issues that were raised during this process.

First, the amendment addresses the counting of multiple prior sentences. The Commission has heard from a number of practitioners throughout the criminal justice system that the “related cases” rules at subsection (a)(2) of § 4A1.2 (Definitions and Instructions for Computing Criminal History) and Application Note 3 of § 4A1.2 are too complex and lead to confusion. Moreover, a significant amount of litigation has arisen concerning application of the rules, and circuit conflicts have developed over the meaning of terms in the commentary that define when prior sentences may be considered “related.” For example, the commentary provides that prior sentences for offenses not separated by an intervening arrest are to be considered related if the sentences resulted from offenses that were consolidated for sentencing. In determining whether offenses were consolidated for sentencing, some courts have required that the record reflect a formal order of consolidation, while others have not. Compare, e.g., *United States v. Correa*, 114 F.3d 314, 317 (1st Cir. 1997) (order required) with

United States v. Huskey, 137 F.3d 283, 288 (5th Cir. 1998) (order not required).

The amendment simplifies the rules for counting multiple prior sentences and promotes consistency in the application of the guideline. The amendment eliminates use of the term "related cases" at § 4A1.2(a)(2) and instead uses the terms "single" and "separate" sentences. This change in terminology was made because some have misunderstood the term "related cases" to suggest a relationship between the prior sentences and the instant offense. Prior sentences for conduct that is part of the instant offense are separately addressed at § 4A1.2(a)(1) and Application Note 1 of that guideline.

Under the amendment, the initial inquiry will be whether the prior sentences were for offenses that were separated by an intervening arrest (i.e., the defendant was arrested for the first offense prior to committing the second offense). If so, they are to be considered separate sentences, counted separately, and no further inquiry is required.

If the prior sentences were for offenses that were not separated by an intervening arrest, the sentences are to be counted as separate sentences unless the sentences (1) were for offenses that were named in the same charging document, or (2) were imposed on the same day. In either of these situations they are treated as a single sentence.

The amendment further provides that in the case of a single sentence that comprises multiple concurrent sentences of varying lengths, the longest sentence is to be used for purposes of applying subsection (a), (b) and (c) of § 4A1.1 (Criminal History Category). In the case of a single sentence that comprises multiple sentences that include one or more consecutive sentences, the aggregate sentence is to be used for purposes of applying § 4A1.1(a), (b), and (c).

Instances may arise in which a single sentence comprises multiple prior sentences for crimes of violence. In such a case, § 4A1.1(f) will apply. Consistent with § 4A1.1(f) and Application Note 6 to § 4A1.1, additional criminal history points will be awarded for certain sentences that otherwise do not receive points because they have been determined to be part of a single sentence. For example, if a defendant's criminal history contains two robbery convictions for which the defendant received concurrent five-year sentences of imprisonment and the sentences are considered a single sentence because the offenses were not separated by an intervening arrest and were imposed on the same day, a total of 3 points would

be added under § 4A1.1(a). An additional point would be added under § 4A1.1(f) because the second sentence was for a crime of violence that did not receive any points under § 4A1.1(a), (b), or (c).

The amendment also provides for an upward departure at Application Note 12(A) to § 4A1.1 if counting multiple prior sentences as a single sentence would underrepresent the seriousness of the defendant's criminal history and the danger that the defendant presents to the public.

Second, the amendment addresses the use of misdemeanor and petty offenses in determining a defendant's criminal history score. Sections 4A1.2(c)(1) and (2) govern whether and when certain misdemeanor and petty offenses are counted. Section 4A1.2(c)(1) lists offenses that are counted only when the prior sentence was a term of probation of at least one year or a term of imprisonment of at least 30 days. Section 4A1.2(c)(2) lists offenses that are never counted toward the defendant's criminal history score. The amendment responds to concerns that (1) some misdemeanor and petty offenses counted under the guidelines involve conduct that is not serious enough to warrant increased punishment upon sentencing for a subsequent offense; (2) the presence of a prior misdemeanor or petty offense in a rare case can affect the sentence in the instant offense in a way that is greatly disproportionate to the seriousness of the prior offense (such as when such a prior offense alone disqualifies a defendant from safety valve eligibility); and (3) jurisdictional differences in defining misdemeanor and petty offenses can result in inconsistent application of criminal history points for substantially similar conduct.

To evaluate these concerns, the Commission conducted a study of misdemeanor and petty offenses and the criminal history rules that govern them, particularly § 4A1.2(c)(1). The Commission examined a sample of 11,300 offenders sentenced in fiscal year 2006 to determine the type of misdemeanor and petty offenses counted in the criminal history score, the frequency with which they occurred, and the particular guideline provisions that caused them to be counted. In addition, the Commission examined a sample of offenders sentenced in 1992 who were subsequently released from imprisonment and monitored for two years for evidence of recidivism. (See U.S. Sentencing Commission, *Measuring Recidivism: The Criminal History Computation of the Federal*

*Sentencing Guidelines* (2004) for additional information concerning this sample.) Furthermore, the Commission examined how state guidelines treat minor offenses.

The results of these analyses led the Commission to make three modifications to § 4A1.2(c)(1) and (2). First, the amendment moves from § 4A1.2(c)(1) to § 4A1.2(c)(2) two classes of offenses: fish and game violations and local ordinance violations (except those violations that are also violations under state criminal law). Second, the amendment changes the probation criterion at § 4A1.2(c)(1) from a term of "at least" one year to a term of "more than" one year. Finally, the amendment resolves a circuit conflict over the manner in which a non-listed offense is determined to be "similar to" an offense listed at § 4A1.2(c)(1) and (2).

Fish and game violations were moved from § 4A1.2(c)(1) to § 4A1.2(c)(2) so that they will not be counted in a defendant's criminal history score. Fish and game violations generally do not involve criminal conduct that is more serious than the offense of conviction, and the relatively minor sentences received by fish and game offenders in the fiscal year 2006 study suggest that these offenses are not considered to be among the more serious offenses listed at § 4A1.2(c)(1).

In addition, local ordinance violations (except those that are also violations of state law) were moved from § 4A1.2(c)(1) to § 4A1.2(c)(2) so that they also will not be counted in a defendant's criminal history score. Similar to fish and game violations, local ordinance violations generally do not represent conduct criminalized under state law. Moreover, these offenses also frequently received minor sentences. The exception in this amendment for violations that are also criminal violations under state law will ensure that only the more serious prior criminal conduct will continue to be included in the criminal history score.

Section 4A1.2(c)(1)(A) is amended to provide that the offenses listed at § 4A1.2(c)(1) will be counted "only if (A) the sentence was a term of probation of more than one year or a term of imprisonment of at least thirty days, or (B) the prior offense was similar to the instant offense" (emphasis added). The Commission received comment that some sentences of a one-year term of probation constitute a default punishment summarily imposed by the state sentencing authority, particularly in those instances in which the probation imposed lacked a supervision component or was imposed in lieu of a fine or to enable the payment of a fine.



The Commission determined that prior misdemeanor and petty offenses that receive such a relatively minor default sentence should not be counted for criminal history purposes.

The amendment resolves a circuit conflict over the manner in which a court should determine whether a non-listed offense is “similar to” an offense listed at § 4A1.2(c)(1) or (2). Some courts have adopted a “common sense approach,” first articulated by the Fifth Circuit in *United States v. Hardeman*, 933 F.2d 278, 281 (5th Cir. 1991). This common sense approach includes consideration of all relevant factors of

similarity such as “punishments imposed for the listed and unlisted offenses, the perceived seriousness of the offense as indicated by the level of punishment, the elements of the offense, the level of culpability involved, and the degree to which the commission of the offense indicates a likelihood of recurring criminal conduct.” *Id.* See also *United States v. Martinez-Santos*, 184 F.3d 196, 205–06 (2d Cir. 1999) (adopting *Hardeman* approach); *United States v. Booker*, 71 F.3d 685, 689 (7th Cir. 1995) (same). Other courts have adopted a strict “elements” test, which involves solely a comparison between

the elements of the two offenses to determine whether or not the offenses are similar. See *United States v. Elmore*, 108 F.3d 23, 27 (3d Cir. 1997); *United States v. Tigney*, 367 F.3d 200, 201–02 (4th Cir. 2004); *United States v. Borer*, 412 F.3d 987, 992 (8th Cir. 2005). This amendment, at Application Note 12(A), adopts the *Hardeman* “common sense approach” as a means of ensuring that courts are guided by a number of relevant factors that may help them determine whether a non-listed offense is similar to a listed one.

[FR Doc. E7–9421 Filed 5–11–07; 11:54 am]

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# Federal Register

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**Monday,  
May 21, 2007**

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## **Part III**

## **The President**

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**Notice of May 18, 2007—Continuation of  
the National Emergency Protecting the  
Development Fund for Iraq and Certain  
Other Property in Which Iraq Has an  
Interest**



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# Presidential Documents

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Title 3—

Notice of May 18, 2007

The President

## **Continuation of the National Emergency Protecting the Development Fund for Iraq and Certain Other Property in Which Iraq Has an Interest**

On May 22, 2003, by Executive Order 13303, I declared a national emergency protecting the Development Fund for Iraq and certain other property in which Iraq has an interest, pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) (IEEPA). I took this action to deal with the unusual and extraordinary threat to the national security and foreign policy of the United States posed by the obstacles to the orderly reconstruction of Iraq, the restoration and maintenance of peace and security in the country, and the development of political, administrative, and economic institutions in Iraq constituted by the threat of attachment or other judicial process against the Development Fund for Iraq, Iraqi petroleum and petroleum products, and interests therein, and proceeds, obligations, or any financial instruments of any nature whatsoever arising from or related to the sale or marketing thereof, and interests therein.

In Executive Order 13315, of August 28, 2003, Executive Order 13350 of July 29, 2004, and Executive Order 13364 of November 29, 2004, I modified the scope of the national emergency declared in Executive Order 13303 and amended the steps taken pursuant to it.

Because the obstacles to the orderly reconstruction of Iraq, the restoration and maintenance of peace and security in the country, and the development of political, administrative, and economic institutions in Iraq continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States, the national emergency declared on May 22, 2003, and the measures adopted on that date, August 28, 2003, July 29, 2004, and November 29, 2004, to deal with that emergency must continue in effect beyond May 22, 2007. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency protecting the Development Fund for Iraq and certain other property in which Iraq has an interest.

This notice shall be published in the **Federal Register** and transmitted to the Congress.

A handwritten signature in black ink, appearing to be "George W. Bush", written in a cursive style.

THE WHITE HOUSE,  
*May 18, 2007.*

[FR Doc. 07-2564

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**REMINDERS**

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

**RULES GOING INTO EFFECT MAY 21, 2007****ENVIRONMENTAL PROTECTION AGENCY****Air programs:**

- Ambient air quality standards, national—
- Exceptional events; data treatment; published 3-22-07

**HOMELAND SECURITY DEPARTMENT****Coast Guard****Drawbridge operations:**

- Illinois; published 4-19-07

**HOUSING AND URBAN DEVELOPMENT DEPARTMENT****Public and Indian housing:**

- Indian Housing Block Grant Program; allocation formula revisions; published 4-20-07

**INTERIOR DEPARTMENT****Surface Mining Reclamation and Enforcement Office****Permanent program and abandoned mine land reclamation plan submissions:**

- Indiana; published 5-21-07

**TRANSPORTATION DEPARTMENT****Federal Aviation Administration****Airworthiness directives:**

- APEX Aircraft; published 4-30-07

**COMMENTS DUE NEXT WEEK****AGRICULTURE DEPARTMENT****Agricultural Marketing Service**

Cranberries grown in Massachusetts, et al.; comments due by 5-31-07; published 5-1-07 [FR E7-08233]

**Grade standards:**

- Sweet cherries; comments due by 5-29-07; published 3-30-07 [FR 07-01537]

**AGRICULTURE DEPARTMENT****Animal and Plant Health Inspection Service**

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**AGRICULTURE DEPARTMENT****Forest Service**

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**AGRICULTURE DEPARTMENT****Farm Service Agency****Special programs:**

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Yellowtail flounder; comments due by 5-29-07; published 5-11-07 [FR E7-09092]

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**COMMERCE DEPARTMENT Patent and Trademark Office****Practice and procedure:**

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**COMMODITY FUTURES TRADING COMMISSION****Commodity Exchange Act:**

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requirement; comments due by 5-29-07; published 4-26-07 [FR E7-08025]

Privacy of consumer financial information; model privacy form; comments due by 5-29-07; published 3-29-07 [FR 07-01476]

Privacy of consumer financial information; model privacy form

Correction; comments due by 5-29-07; published 4-5-07 [FR C7-01476]

**DEFENSE DEPARTMENT****Defense Acquisition Regulations System****Acquisition regulations:**

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**Free trade agreements—**

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**DEFENSE DEPARTMENT****Federal Acquisition Regulation (FAR):**

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Air programs; approval and promulgation; State plans for designated facilities and pollutants:

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Air quality implementation plans; approval and promulgation; various States:

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Air quality implementation plans; approval and promulgation; various States; air quality planning purposes; designation of areas:

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Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

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**Toxic substances:**

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Voluntary High Production Challenge Program orphan chemicals, list; chemical substances withdrawn; comments due by 5-30-07; published 4-30-07 [FR 07-02104]

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Privacy of consumer financial information; model privacy form

Correction; comments due by 5-29-07; published 4-5-07 [FR C7-01476]



**FEDERAL RESERVE SYSTEM**

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**FEDERAL TRADE COMMISSION**

Privacy of consumer financial information; model privacy form; comments due by 5-29-07; published 3-29-07 [FR 07-01476]

Privacy of consumer financial information; model privacy form

Correction; comments due by 5-29-07; published 4-5-07 [FR C7-01476]

**GENERAL SERVICES ADMINISTRATION**

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**HOUSING AND URBAN DEVELOPMENT DEPARTMENT**

Public and Indian housing:

Indian Housing Block Grant Program; annual performance report due date extension; comments due by 5-29-07; published 3-29-07 [FR E7-05738]

**INTERIOR DEPARTMENT Fish and Wildlife Service**

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**INTERIOR DEPARTMENT****Surface Mining Reclamation and Enforcement Office**

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**NATIONAL CREDIT UNION ADMINISTRATION**

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**TRANSPORTATION DEPARTMENT****Federal Aviation Administration**

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**TRANSPORTATION DEPARTMENT****National Highway Traffic Safety Administration**

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Passenger cars, 2007-2017 model years, and light trucks, 2010-2017 model years; CAFE product plan information request; comments due by 5-29-07; published 2-27-07 [FR 07-00878]

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**TREASURY DEPARTMENT****Internal Revenue Service**

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Correction; comments due by 5-29-07; published 4-5-07 [FR C7-01476]

**LIST OF PUBLIC LAWS**

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202-741-6043. This list is also available online at <http://www.archives.gov/federal-register/laws.html>.

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**H.R. 1681 / P.L. 110-26**

The American National Red Cross Governance Modernization Act of 2007 (May 11, 2007; 121 Stat. 103; 8 pages)

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Title	Stock Number	Price	Revision Date
1	(869-062-00001-4)	5.00	4 Jan. 1, 2007
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4	(869-062-00004-9)	10.00	5 Jan. 1, 2007
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*6	(869-062-00008-1)	10.50	Jan. 1, 2007
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*1200-1599	(869-062-00018-9)	61.00	Jan. 1, 2007
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end) .....	(869-060-00109-3) .....	46.00	July 1, 2006	700-789 .....	(869-060-00167-1) .....	61.00	July 1, 2006
1911-1925 .....	(869-060-00110-7) .....	30.00	July 1, 2006	790-End .....	(869-060-00168-9) .....	61.00	July 1, 2006
1926 .....	(869-060-00111-5) .....	50.00	July 1, 2006	<b>41 Chapters:</b>			
1927-End .....	(869-060-00112-3) .....	62.00	July 1, 2006	1, 1-1 to 1-10 .....		13.00	<sup>3</sup> July 1, 1984
<b>30 Parts:</b>				1, 1-11 to Appendix, 2 (2 Reserved) .....		13.00	<sup>3</sup> July 1, 1984
1-199 .....	(869-060-00113-1) .....	57.00	July 1, 2006	3-6 .....		14.00	<sup>3</sup> July 1, 1984
200-699 .....	(869-060-00114-0) .....	50.00	July 1, 2006	7 .....		6.00	<sup>3</sup> July 1, 1984
700-End .....	(869-060-00115-8) .....	58.00	July 1, 2006	8 .....		4.50	<sup>3</sup> July 1, 1984
<b>31 Parts:</b>				9 .....		13.00	<sup>3</sup> July 1, 1984
0-199 .....	(869-060-00116-6) .....	41.00	July 1, 2006	10-17 .....		9.50	<sup>3</sup> July 1, 1984
200-499 .....	(869-060-00117-4) .....	46.00	July 1, 2006	18, Vol. I, Parts 1-5 .....		13.00	<sup>3</sup> July 1, 1984
500-End .....	(869-060-00118-2) .....	62.00	July 1, 2006	18, Vol. II, Parts 6-19 .....		13.00	<sup>3</sup> July 1, 1984
<b>32 Parts:</b>				18, Vol. III, Parts 20-52 .....		13.00	<sup>3</sup> July 1, 1984
1-39, Vol. I .....		15.00	<sup>2</sup> July 1, 1984	19-100 .....		13.00	<sup>3</sup> July 1, 1984
1-39, Vol. II .....		19.00	<sup>2</sup> July 1, 1984	1-100 .....	(869-060-00169-7) .....	24.00	July 1, 2006
1-39, Vol. III .....		18.00	<sup>2</sup> July 1, 1984	101 .....	(869-060-00170-1) .....	21.00	<sup>9</sup> July 1, 2006
1-190 .....	(869-060-00119-1) .....	61.00	July 1, 2006	102-200 .....	(869-060-00171-9) .....	56.00	July 1, 2006
191-399 .....	(869-060-00120-4) .....	63.00	July 1, 2006	201-End .....	(869-060-00172-7) .....	24.00	July 1, 2006
400-629 .....	(869-060-00121-2) .....	50.00	July 1, 2006	<b>42 Parts:</b>			
630-699 .....	(869-060-00122-1) .....	37.00	July 1, 2006	1-399 .....	(869-060-00173-5) .....	61.00	Oct. 1, 2006
700-799 .....	(869-060-00123-9) .....	46.00	July 1, 2006	400-413 .....	(869-060-00174-3) .....	32.00	Oct. 1, 2006
800-End .....	(869-060-00124-7) .....	47.00	July 1, 2006	414-429 .....	(869-060-00175-1) .....	32.00	Oct. 1, 2006
<b>33 Parts:</b>				430-End .....	(869-060-00176-0) .....	64.00	Oct. 1, 2006
1-124 .....	(869-060-00125-5) .....	57.00	July 1, 2006	<b>43 Parts:</b>			
125-199 .....	(869-060-00126-3) .....	61.00	July 1, 2006	1-999 .....	(869-060-00177-8) .....	56.00	Oct. 1, 2006
200-End .....	(869-060-00127-1) .....	57.00	July 1, 2006	1000-end .....	(869-060-00178-6) .....	62.00	Oct. 1, 2006
<b>34 Parts:</b>				<b>44</b> .....	(869-060-00179-4) .....	50.00	Oct. 1, 2006
1-299 .....	(869-060-00128-0) .....	50.00	July 1, 2006	<b>45 Parts:</b>			
300-399 .....	(869-060-00129-8) .....	40.00	July 1, 2006	1-199 .....	(869-060-00180-8) .....	60.00	Oct. 1, 2006
400-End & 35 .....	(869-060-00130-1) .....	61.00	<sup>9</sup> July 1, 2006	200-499 .....	(869-060-00181-6) .....	34.00	Oct. 1, 2006
<b>36 Parts:</b>				500-1199 .....	(869-060-00182-4) .....	56.00	Oct. 1, 2006
1-199 .....	(869-060-00131-0) .....	37.00	July 1, 2006	1200-End .....	(869-060-00183-2) .....	61.00	Oct. 1, 2006
200-299 .....	(869-060-00132-8) .....	37.00	July 1, 2006	<b>46 Parts:</b>			
300-End .....	(869-060-00133-6) .....	61.00	July 1, 2006	1-40 .....	(869-060-00184-1) .....	46.00	Oct. 1, 2006
<b>37</b> .....	(869-060-00134-4) .....	58.00	July 1, 2006	41-69 .....	(869-060-00185-9) .....	39.00	Oct. 1, 2006
<b>38 Parts:</b>				70-89 .....	(869-060-00186-7) .....	14.00	Oct. 1, 2006
0-17 .....	(869-060-00135-2) .....	60.00	July 1, 2006	90-139 .....	(869-060-00187-5) .....	44.00	Oct. 1, 2006
18-End .....	(869-060-00136-1) .....	62.00	July 1, 2006	140-155 .....	(869-060-00188-3) .....	25.00	Oct. 1, 2006
<b>39</b> .....	(869-060-00137-9) .....	42.00	July 1, 2006	156-165 .....	(869-060-00189-1) .....	34.00	Oct. 1, 2006
<b>40 Parts:</b>				166-199 .....	(869-060-00190-5) .....	46.00	Oct. 1, 2006
1-49 .....	(869-060-00138-7) .....	60.00	July 1, 2006	200-499 .....	(869-060-00191-3) .....	40.00	Oct. 1, 2006
50-51 .....	(869-060-00139-5) .....	45.00	July 1, 2006	500-End .....	(869-060-00192-1) .....	25.00	Oct. 1, 2006
52 (52.01-52.1018) .....	(869-060-00140-9) .....	60.00	July 1, 2006	<b>47 Parts:</b>			
52 (52.1019-End) .....	(869-060-00141-7) .....	61.00	July 1, 2006	0-19 .....	(869-060-00193-0) .....	61.00	Oct. 1, 2006
53-59 .....	(869-060-00142-5) .....	31.00	July 1, 2006	20-39 .....	(869-060-00194-8) .....	46.00	Oct. 1, 2006
60 (60.1-End) .....	(869-060-00143-3) .....	58.00	July 1, 2006	40-69 .....	(869-060-00195-6) .....	40.00	Oct. 1, 2006
60 (Apps) .....	(869-060-00144-7) .....	57.00	July 1, 2006	70-79 .....	(869-060-00196-4) .....	61.00	Oct. 1, 2006
61-62 .....	(869-060-00145-0) .....	45.00	July 1, 2006	80-End .....	(869-060-00197-2) .....	61.00	Oct. 1, 2006
63 (63.1-63.599) .....	(869-060-00146-8) .....	58.00	July 1, 2006	<b>48 Chapters:</b>			
63 (63.600-63.1199) .....	(869-060-00147-6) .....	50.00	July 1, 2006	1 (Parts 1-51) .....	(869-060-00198-1) .....	63.00	Oct. 1, 2006
63 (63.1200-63.1439) .....	(869-060-00148-4) .....	50.00	July 1, 2006	1 (Parts 52-99) .....	(869-060-00199-9) .....	49.00	Oct. 1, 2006
63 (63.1440-63.6175) .....	(869-060-00149-2) .....	32.00	July 1, 2006	2 (Parts 201-299) .....	(869-060-00200-6) .....	50.00	Oct. 1, 2006
				3-6 .....	(869-060-00201-4) .....	34.00	Oct. 1, 2006
				7-14 .....	(869-060-00202-2) .....	56.00	Oct. 1, 2006

Title	Stock Number	Price	Revision Date
15-28 .....	(869-060-00203-1) .....	47.00	Oct. 1, 2006
29-End .....	(869-060-00204-9) .....	47.00	Oct. 1, 2006
<b>49 Parts:</b>			
1-99 .....	(869-060-00205-7) .....	60.00	Oct. 1, 2006
100-185 .....	(869-060-00206-5) .....	63.00	Oct. 1, 2006
186-199 .....	(869-060-00207-3) .....	23.00	Oct. 1, 2006
200-299 .....	(869-060-00208-1) .....	32.00	Oct. 1, 2006
300-399 .....	(869-060-00209-0) .....	32.00	Oct. 1, 2006
400-599 .....	(869-060-00210-3) .....	64.00	Oct. 1, 2006
600-999 .....	(869-060-00211-1) .....	19.00	Oct. 1, 2006
1000-1199 .....	(869-060-00212-0) .....	28.00	Oct. 1, 2006
1200-End .....	(869-060-00213-8) .....	34.00	Oct. 1, 2006
<b>50 Parts:</b>			
1-16 .....	(869-060-00214-6) .....	11.00	<sup>10</sup> Oct. 1, 2006
17.1-17.95(b) .....	(869-060-00215-4) .....	32.00	Oct. 1, 2006
17.95(c)-end .....	(869-060-00216-2) .....	32.00	Oct. 1, 2006
17.96-17.99(h) .....	(869-060-00217-1) .....	61.00	Oct. 1, 2006
17.99(i)-end and 17.100-end .....	(869-060-00218-9) .....	47.00	<sup>10</sup> Oct. 1, 2006
18-199 .....	(869-060-00219-7) .....	50.00	Oct. 1, 2006
200-599 .....	(869-060-00220-1) .....	45.00	Oct. 1, 2006
600-659 .....	(869-060-00221-9) .....	31.00	Oct. 1, 2006
660-End .....	(869-060-00222-7) .....	31.00	Oct. 1, 2006
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<sup>1</sup> Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

<sup>2</sup> The July 1, 1985 edition of 32 CFR Parts 1-189 contains a note only for Parts 1-39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1-39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

<sup>3</sup> The July 1, 1985 edition of 41 CFR Chapters 1-100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

<sup>4</sup> No amendments to this volume were promulgated during the period January 1, 2005, through January 1, 2006. The CFR volume issued as of January 1, 2005 should be retained.

<sup>5</sup> No amendments to this volume were promulgated during the period January 1, 2006, through January 1, 2007. The CFR volume issued as of January 6, 2006 should be retained.

<sup>6</sup> No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2006. The CFR volume issued as of April 1, 2000 should be retained.

<sup>7</sup> No amendments to this volume were promulgated during the period April 1, 2005, through April 1, 2006. The CFR volume issued as of April 1, 2004 should be retained.

<sup>8</sup> No amendments to this volume were promulgated during the period April 1, 2005, through April 1, 2006. The CFR volume issued as of April 1, 2005 should be retained.

<sup>9</sup> No amendments to this volume were promulgated during the period July 1, 2005, through July 1, 2006. The CFR volume issued as of July 1, 2005 should be retained.

<sup>10</sup> No amendments to this volume were promulgated during the period October 1, 2005, through October 1, 2006. The CFR volume issued as of October 1, 2005 should be retained.